

SAFETOBE:
**A WORKSHOP GUIDE FOR LAW ENFORCEMENT
ON ANTI-LGBTI HATE CRIMES**



SAFE.T0.BE BY SPEAK OUT
PROJECT

SAFETOBE:
**A WORKSHOP GUIDE FOR LAW ENFORCEMENT
ON ANTI-LGBTI HATE CRIMES**

CONTENTS

Introduction – 7

ABOUT THIS TOOLKIT— 9

About us – 9

Target group of this toolkit – 15

Theory – 16

Interactive learning – 16

Approach – 17

Methodology – 18

Qualitative research – 18

Alpha testing – 20

Practical – 21

Logistical information – 21

YOUR WORKSHOP – 22

Structure of your workshop – 22

In a nutshell – 22

EXERCISES PART 1 – 23

Icebreaker – 23

Ground rules – 25

“But what were you wearing?” – 26

Statements – 26

Good practices – 28



THEORY – 31

Hate Crime – 31

Definitions – 31

Bias indicators – 34

Hate crime vs. hate speech – 34

Proportionality – 35

Underreporting of anti-LGBTI hate crimes – 36

Secondary victimization – 36

Further reading – 37

SOGIESC and LGBTI – the basics – 38

Video 1 – Welcome – 39

Video 2 – the ‘norm’ and SOGIESC – 39

Video 3 – gender identity, sex characteristics and gender expression – 40

Video 4 – sexual orientation – 42

LEGISLATION – 45

EU context – 45

Overview – 45

Partner countries – 48

EXERCISES PART 2 – 93

The case for cases – 93

Getting started – 95

Walking around the room – 96

Debriefing – 97

Why does it matter? – 97

Real life cases – 98

CONCLUSION – 109

Editor: Alexi De Greef
Proofreading: Tobi Smethurst
Graphic design: Ena Jurov
Illustrations: Koen Aelterman
Video animation: Freek Heyman
Publisher: çavaria
First edition
Ghent, 2020
© The publisher
Attribution-NonCommercial-ShareAlike 2.5
(CC BY-NC-SA 2.5)

Thank you to all security and victim services interviewed and consulted for this toolkit. A special thanks to Kristof De Busser, Chief inspector and Division manager Diversity unit of the Antwerp police department, Belgium, for the continuous consultations and Kenneth Mills who, by writing and starting up the project, contributed to its successful development.

SAFE.TC.BE BY **SPEAK OUT**
PROJECT

This publication was produced as part of the project Speak Out: Tackling anti-LGBT hate speech and hate crime, co-funded by the Rights, Equality and Citizenship Programme of the European Union (2014–2020).



The content of this publication represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.

This publication may be downloaded free of charge from speakout-project.eu.

A lot of work has been done by NGO's all over the European Union on the topic of hate crimes towards the LGBTI community (*Lesbian, Gay, Bisexual, Transgender, Intersex*). Yet, the scale of hate crime against LGBTI people and its impact on the community remain underestimated. More often than not these crimes are either not recognized, or they remain unreported. Many victims who decide not to report their crime, do so because they don't believe law enforcement would act upon their complaint, because they fear the reaction from the police, or because reliving the crime in front of a stranger who might not respond well causes an added psychological trauma.

This toolkit addresses this last point specifically. It provides law enforcement trainers with a step-by-step interactive workshop, which aims to raise awareness on the psychological impact of reporting a hate crime. In the workshop, participants are shown real life cases that demonstrate both 'bad' and 'good' examples of a reporting procedure from the perspective of the victim. This encourages participants to step into the shoes of an LGBTI person reporting a hate crime, leading them to a deeper understanding of the particular stresses that this can cause.

By understanding the stress of the victim during a reporting procedure, participating officers are encouraged to create a safe atmosphere, which is necessary for victims of anti-LGBTI hate crimes to provide all the relevant information when registering a hate crime. When victims are better helped, and reporting of hate crimes occurs more consistently, we will come to a better understanding of the prevalence of anti-LGBTI hate crimes, and will be able to adjust policies accordingly. Eventually, this will help to reduce both the scale and impact of hate crimes across the community.

ABOUT THIS TOOLKIT

This part of the toolkit is intended for you, the trainer. We recommend reading through this part before starting the preparations for your workshop. This section will provide the framework for your workshop, link you to some relevant external resources, and offer methodological information about the creation of the toolkit.

About us

It is our aim to support professionals to keep our communities safe from anti-LGBTI hate crime and hate speech and to raise awareness among our communities.

We help professionals who are familiarizing themselves with the topics of hate crime and hate speech in practical ways.

We inform governments and institutions, professionals and the larger society about hate crime and hate speech.

We raise awareness among our communities about hate crime and hate speech.

– *Safe To Be*

Safe To Be by Speak Out is a European project involving nine EU member states. The project goals of **Safe To Be** are threefold. In front of you is our first developed output: a toolkit to raise awareness within victim support services and law enforcement about the impact of hate speech and hate crimes on the LGBTI community. Secondly, **Safe To Be** by Speak Out is also developing a handbook on restorative justice and the application of this conflict resolution technique on hate crimes. This handbook, also intended for professionals, will be available from October 2020. The third and final focus of **Safe To Be** is the development of a website for (and by) the LGBTI community that offers an empowering counter-narrative on online hate messages and incidents.

10

All organisations involved in **Safe To Be** are connected to the LGBTI communities in their respective countries, and have experience on the topic of hate crime and hate speech that they wish to put into the service of their communities and of professional stakeholders.

A short introduction of the organizations involved in the creation of this toolkit:



Bilitis is the oldest still running LGBTI organization in Bulgaria. Its activity begins in 2004 as a support group for lesbians and bisexual women and gradually includes trans and intersex people in its leadership. Today Bilitis actively advocates for eliminating all forms of discrimination and achieving full equality for LGBTI people in Bulgaria, through its work in different spheres such as: community organizing, advocacy, conducting research and trainings for professionals in different fields.



çavaria is the umbrella organisation of over 120 registered LGBTI+ associations which are given support and free training. Together they represent the LGBTI+ community in Flanders and Brussels. In addition to this, an equal opportunities initiative is in place aimed at wider society. çavaria stands up for LGBTI+ people by working at the structural level. çavaria campaigns, informs, creates awareness, lobbies and represents opinions. The free and anonymous service Lumi offers assistance and serves as a way to report discrimination. ZiZo Magazine is çavaria's public online voice.

EHRC Estonian Human Rights Centre is an independent non-governmental human rights advocacy organisation. The mission of EHRC is to work together for Estonia that respects the human rights of each person. EHRC develops its activities according to the needs of the society. Our focus is currently on the advancement of equal treatment of minority groups and diversity & inclusion and the human rights of asylum seekers and refugees. We also monitor the overall human rights situation in Estonia and publish bi-annual independent human rights reports about the situation in Estonia. EHRC is governed by an independent Council, representing a range of views and societal groups.



FELGTB The Federación Estatal de Lesbianas, Gais, Trans y Bisexuales (FELGTB) is the largest LGTBI organization, with 55 members in Spain and one of the largest in Europe. It is one of the few LGTBI organizations in the world that has consultative status with the United Nations and it is declared of public utility. With almost 30 years of history, it is the reference in the promotion and defense of rights for LGTBI people. It is responsible for the national call for the LGTBI Pride demonstration in Madrid, in which more than half a million people participate every year.



GALOP is the UK's LGBT+ anti-violence charity. For the past 35 years it has provided advice, support and advocacy to LGBT+ victims and campaigned to end anti-LGBT+ violence and abuse. Galop works within three key areas; hate crime, domestic abuse and sexual violence. Its purpose is to make life safe, just and fair for LGBT+ people. It works to help LGBT+ people achieve positive changes through practical and emotional support to develop resilience and to build lives free from violence and abuse.



Háttér Society, founded in 1995, is the largest and oldest currently operating lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) organization in Hungary. Háttér's aims are calling attention to the problems faced by LGBTQI people; providing support services; exploring the situation and needs of LGBTQI people; mainstreaming these concerns in laws and public services; protecting the human rights of LGBTQI people and countering discrimination against them; promoting the health and well-being of LGBTQI people; encouraging the self-organization of LGBTQI communities; and preserving and spreading LGBTQI heritage and culture.



ILGA Portugal

Founded in 1995, ILGA Portugal is the largest and the oldest NGO in Portugal striving for equality and against discrimination based on sexual orientation, gender expression and identity and sex characteristics. Our mission is the social integration of the lesbian, gay, bisexual, trans and intersex population and their families in Portugal through a program of social support that improves the quality of life of LGBTI people and their families; through the fight against discrimination based on sexual orientation, gender expression and identity and sex characteristics; and through the promotion of full citizenship, Human Rights and gender equality.

We are a national organization and although we are based in Lisbon, we also have a project and an office in Porto.

ILGA Portugal has a strong diversity policy and very active groups devoted to specific topics such as Lesbian issues or Trans issues, as well as a group devoted to Rainbow Families. We are members of ILGA Europe's Advocacy Network, founding members of NELFA, correspondents for IDAHO, members of FRA's Fundamental Rights Platform and of the Advisory Council of the Portuguese Commission for Citizenship and Gender Equality (national mechanism for equality).



LGL The national lesbian, gay bisexual and transgender (LGBT) rights association LGL is the only nongovernmental organization in Lithuania exclusively representing the interests of the local LGBT community. LGL is one of the most stable and mature organizations within the civic sector in the country as it was founded on 3 December 1993. The main principle that characterizes the activities of the association is that of independence from any political or financial interests, with the aim of attaining effective social inclusion and integration of the local LGBT community in Lithuania. Based on its expertise in the fields of advocacy, awareness raising and community building, accumulated during twenty years of organizational existence, LGL strives for the consistent progress in the field of human rights for LGBT people.



Mozaika Association of LGBT and their friends MOZAIKA (LGBT un viņu draugu apvienība MOZAIKA) is until now the only LGBT organisation in Latvia. It was established with the aim of to improve the situation of LGBTI persons in Latvia, including the improvement of the legal framework that protects LGBTI persons from discrimination, hate-crime, hate speech, as well as legislation aimed at the recognition of same-sex families in Latvia. MOZAIKA provides broad-spectrum engagement opportunities for the LGBTI community and its supporters, as well as providing professional training and resources for researchers and other stakeholders.

Come Forward



This toolkit builds on the work previously conducted in the European project *Come Forward*. Among other activities, Come Forward identified training needs of reporting centres — such as law enforcement, NGOs and victim support providers — based on results of 460 surveys and 200 interviews. The results of this research — available in the research book *‘Running Through Hurdles’* — show that there are still many deficiencies in training professionals on LGBTI and hate crime issues. Some recommendations include to “raise awareness and build capacity of professionals by ensuring appropriate, systematic and sustainable training on LGBTI issues and on anti-LGBTI hate crimes for law enforcement officers, prosecutors, members of the judiciary, as well as social services and providers of victim support services” and to “ensure that law enforcement officers and prosecutors have up-to-date guidelines on investigating hate crimes and hate” (p316–317).

It is these recommendations, combined with the many interviews with law enforcement that were conducted for **Safe To Be**, that inspired the conceptualization of this toolkit.

This multimedia toolkit is intended for anyone interested in providing training for law enforcement personnel. It aims to give you – the trainer – a practical and efficient guide to empowering law enforcement in their contact with victims of anti-LGBTI hate crimes. By doing this, it wants to improve the ability of the police to recognize and investigate anti-LGBTI hate crimes. A correct understanding of the content of this toolkit by the participants will improve police skills in the prevention of and response to anti-LGBTI hate crimes, allowing them to more effectively interact with LGBTI communities and rebuild public trust and cooperation with law enforcement agencies.

Theory

A solid structure needs a strong foundation. While this toolkit takes a very interactive, practical approach, it also includes theoretical background and refers to outside sources wherever more information might be needed. The theoretical section is divided into 3 parts: LGBTI-specific knowledge, hate crime-specific knowledge, and legislation (European and national context). Depending on your own knowledge of these topics as a trainer, and on the knowledge of your group of participants, you can choose to put more or less emphasis on the theoretical chapters (eg., focus less on legislation and more on LGBTI-specific content for a group of police officers).

However, we strongly recommend you to not skip a chapter entirely, since it is paramount that your participants all start off with a shared basic knowledge of every chapter.

16 **Interactive learning**

By using the principle of storytelling and real-life cases, this toolkit wants to speak to the hearts of your participants and increase their empathy with victims of anti-LGBTI hate crimes.

For an LGBTI person who has experienced a hate crime, there are a lot of barriers to them reporting the crime to the police. It might not always be easy for a (heterosexual and/or cisgender) police officer to understand these barriers. The videos and exercises in this toolkit are developed to offer the perspective of the victim to your participants. As such, this toolkit includes role-playing exercises (albeit without asking the participants to 'act'), thereby making use of the empathy-related benefits of participating in role-play.

At the end of the workshop, the participants will understand that they can make a big difference for a victim of an anti-LGBTI hate crime, simply by providing them with the necessary information, and by asking the right questions in the right setting.

What causes the underreporting of anti-LGBTI hate crimes?

What are the difficulties for an LGBTI person reporting a crime?
How can a police officer ensure that a victim feels comfortable enough to disclose all necessary information?

The aim of this workshop is to raise awareness and increase knowledge on the topic of sexual orientation and gender identity and expression, specifically in the context of reporting anti-LGBTI hate crimes.

The hate crime case in the videos, as well as the cases represented in the toolkit, are based on real-life events in one of **Safe To Be's** participating countries, with the exact origins purposefully left out. It is possible that one or more of your participants have already experienced situations like those featured in the video. The aim of this training is not to criticize current procedures, but to speak openly about the topic in order to improve work practices.

In giving 'good' and 'bad' examples, we are focusing entirely on interpersonal good practices. This includes positive phrasing, open posture, creating a safe atmosphere, building trust, and not turning the victim into an accomplice to a crime that was committed against them (ie., victim-blaming).



Qualitative research

The toolkit is underpinned by successful projects like *Come Forward*, as well as research conducted with members of law enforcement in the first phase of *Safe To Be*. To properly frame your workshop to your participants, we recommend explaining its origins briefly. For instance, if you are a social worker who will be educating police officers, you can legitimize your workshop by mentioning the involvement of 45 members of law enforcement from all over Europe. On the other hand, if you are a member of law enforcement yourself, mentioning that this toolkit was developed by representatives of the LGBTI community, legitimizes the toolkit's expertise on the topic of sexual orientation and gender identity, and the effects of hate crimes on the community.

On top of this, the **Safe To Be** toolkit also builds on the [*TAHCLE*](#) (Training against Hate Crimes for Law Enforcement) programme of the OSCE. Where *TAHCLE* takes on the topic of hate crimes in general, this toolkit uses audio-visual material and real-life cases to emphasize the different approach needed to address anti-LGBTI hate crimes specifically.

Quote from research

"It should be the obligation of a police officer to make sure that the hate crime is registered as a hate crime even if the victim is not referring to it as such in the early stages.",
– *Safe To Be* interviews, anonymous

The **Safe To Be** project partners began work in 2018 by conducting interviews with police forces and judicial services throughout Europe. A total of 45 people were interviewed. The main findings of these interviews can be summarised as follows:

- There is a lack of knowledge about what a hate crime is with officers working in the field, although these are the people who often need the most understanding of it (as opposed to high-ranking officers, diversity or special unit officers, and judges and prosecutors, who are more often well-educated on the topic). The reason for this is threefold:
 - Insufficient legislation.
 - Lack of knowledge about legislation.
 - Insufficient reporting.
- The toolkit will only be perceived as legitimate if law enforcement is involved in the development of both the toolkit and the videos. That is why every partner country checked in with their contact person in law enforcement on a regular basis throughout the development of this toolkit.
- Participants expect visual materials and interactive learning, and a combination of theory and practice. The involvement of both law enforcement and minority groups (in this case, the LGBTI community) further legitimizes the toolkit.

This guide is being disseminated in 9 European countries: Belgium, Bulgaria, Estonia, Hungary, Latvia, Lithuania, Portugal, Spain, and the UK. Since hate crime and LGBTI legislation, as well as societal acceptance of the LGBTI-community varies over these national contexts, the section about the national context is different for every country involved in the creation of this guide.

The English version of this toolkit includes all country chapters of the **Safe To Be** consortium.

The aim of this testing phase, which ran from September 2019 until December 2019, was to identify issues or defects and reach a proof of concept. We wanted to make sure the toolkit could meet its goals of empowering law enforcement when working with victims of anti-LGBTI hate crimes. We presented law enforcement personnel in all the partner countries with the concept of our toolkit, based on the previously conducted interviews. Their input and expertise contributed to the final product, which launched in February 2020.

The workshop opens with a video of a hate crime, followed by a 'bad' example of the reporting procedure. The toolkit builds on this video by providing theoretical and judicial background information, real life cases, a checklist of good practices, discussion questions, statements, and role-playing exercises. The interactive nature of the toolkit aims to feed discussion and increase participation.

The second video depicts the same hate crime being reported to the same officer, but highlights the best practices of the reporting procedure. Hopefully at this point all the participating officers will have identified the mistakes made in video one, and seen the corrections they made in the course of the workshop, represented in video two.

Practical

Logistical information

Duration:

Depending on how you choose to emphasise practice, theory, group discussion or role-playing exercises, the workshop will take 3 to 4 hours (including breaks).

Number of participants:

We suggest limiting the number of participants to 20. This will safeguard the confidential environment needed to discuss the sensitive topics you are about to touch upon.

Selection of participants:

This toolkit is intended for police commanders, officers, cadets, trainees and investigators as a pre-service or in-service training. It is best implemented, however, through a “train the trainer” methodology, in which local police are trained as instructors, after which they train their colleagues.

Room layout:

Consider setting up your room in a U-shape (horseshoe) to create an informal setting in which discussion is encouraged, and the possibility of disappearing in laptops or phones is reduced.



YOUR WORKSHOP

Structure of your workshop

In a nutshell

Start with an **icebreaker** and an introduction round in which you frame your workshop with the information from Part 1 (intent and methodology).

Follow this by showing **the first video**, titled “*But what were you wearing?*”. This video shows an anti-LGBTI hate crime, followed by a representation of a reporting procedure at the police station. In this scenario the victim is not helped the way they should be helped. The police officer fails to ask the right questions, doesn’t take the hate motive into account when registering the crime, and makes the victim feel as if they are an accomplice to the crime (ie., second victimization).

The toolkit then guides you through a couple of **interactive exercises**, intended to feed discussion and increase participation.

Based on the profession of the participants in front of you, and the insight you gained into their pre-existing knowledge from the first practical part of the workshop, the toolkit leaves it up to your discretion to decide how much time to give to each of the following **theoretical chapters** (LGBTI-knowledge, the concept of Hate Crimes, national and EU legislation).

This theoretical part is followed by a **second round of exercises**. These exercises are based on real life cases and will stimulate your participants to step into the shoes of a victim of an anti-LGBTI hate crime and reflect on their own interrogation techniques when dealing with vulnerable victims.

To come full circle, you end your workshop by showing your participants **the second video** “*Why does it matter?*”. This video shows the same hate crime as in the video “*But what were you wearing?*” but is followed by a well-executed reporting procedure. At this point, your participants should have identified all the bad practices in video one throughout the workshop, and see their corrections represented in (go to the [Safe To Be website](#) for a transcript of the scenarios).

EXERCISES PART 1

Since this toolkit emphasizes the importance of participatory education, your workshop starts with interactive exercises before diving into theory. This allows you as a trainer to subtly assess the pre-existing knowledge of your group. It focuses on two exercises; *Statements* and *Good Practices*. They are both based on the video “*But what were you wearing?*”.

Icebreaker

This exercise is meant to warm up the participants and set the tone for the interactive nature of the workshop. By choosing an icebreaker that emphasizes both commonalities and differences, we draw attention to the diversity of the group, even when this is not apparent at first sight. This activity can be used as a low-risk icebreaker, a medium-risk bonding experience or a high-risk team builder and discussion starter. You will need to gauge the use of this activity depending on how well the group knows each other. Depending on these factors, select the appropriate statements.

Ask participants to stand in a circle facing each other. Join them in the circle and read out the statements below. If the statement applies, the participant will take one step forward toward the centre of the circle. If the statement does not apply, the participant will stay in place. Ask participants to reflect on each statement before making the decision to step forward or not. Give time for participants to make their decision, and time for discussion if needed, and then ask participants to step back to their starting position after each question. You can select statements that relate directly to your topic, or some low-risk statements such as those below:

- I had breakfast today.
- I like snow.
- I consider where I live to be my home.
- I like to cook.I was born in the EU.
- I speak more than one language.I have children.I like how I sing, even if other people don't.I have an unusual hobby.
- I identify as multicultural or bicultural.Most of my friends are the same gender as me.
- Most of my friends identify as heterosexual.
- I have friends that are gay, lesbian, bisexual or transgender.
- ...

If you chose to read statements with a more sensitive nature, make sure to give a more thorough debriefing afterwards. Ask the group how they felt during this exercise and if at some point they chose not to respond, even though the statement applied to them. What did they notice as they were going in and out of the circle? What surprised them? What was uncomfortable? What was comfortable?

Before moving on to the first video, highlight the value of exploring commonalities and differences.

Work together with your group to agree on a number of rules. Make sure they are visible throughout the training. It is important that everyone feels comfortable with the rules and commits to respecting them. Some examples of ground rules:

- **Privacy:** personal information is confidential and remains within the group
- **"I feel":** everyone speaks from their own perspective, experiences and views
- **Agency:** thoughts and feelings are allowed to remain personal, it is up to every individual to choose what they want to share
- **Listen:** listen to each other, hear what someone says
- **Respect:** insults or disrespect is not tolerated



26 “But what were you wearing?”

Begin by having the group watch the video titled “But what were you wearing?”

Warning: this video contains abusive language, stalking, homophobic and transphobic violence, and assault.

Statements

Once you have watched the video, divide the room in two by putting an (imaginary) line through the middle. One end of the line represents ‘fully agree’, the other end represents ‘fully disagree’. Read the statements out loud and give the participants a chance to position themselves somewhere along the line. After everyone has chosen a spot, choose one of the participants positioned on one of the more extreme ends, and ask why they chose that position. Ask follow-up questions until you feel everything has been said. Allow participants to reposition themselves if at any point something has made them change their minds. As soon as someone repositions themselves, ask them why.

This exercise shouldn’t take more than 20 minutes. It is merely intended as a thematically and participatory warm-up.



Statements and potential sub-statements:

- **I identify this as a hate crime.**
 - Yes, this as a hate crime because the victim is part of the LGBTI community
 - Yes, this as a hate crime because the police officer puts in her file that Karl is gay
 - Yes, I identify this as a hate crime because the perpetrators attacked Karl because they assumed he is part of the LGBTI community
- **In my opinion knowing the sexual orientation and gender identity of the victim is important to register this as a hate crime.**
 - Yes, if the victim is not part of the LGBTI community, this can't be a hate crime
 - No, it doesn't matter to which community the victim belongs. A hate crime is about the perceived identity of the victim.
- **I think this is good police work.**
 - Yes, because the police file gets made and signed by the victim
 - No, because there is no attention to the psychological wellbeing of the victim which causes the victim to shut down and not share all the necessary details
 - No, because the officer is not interested in digging deeper into the motives of the perpetrators
- **The police officer should have asked more about the outfit the victim was wearing.**
- **The police officer should have asked exactly how many drinks the victim had.**
- **According to me, it is the job of the victim to provide all the information.**
 - Yes, the proof of burden is on them. If they are not willing to share, there is nothing else an officer can do
 - Yes, but the right setting needs to be created in which the victim feels safe sharing all the information
- **In my opinion, the police officer asked all the right questions.**
 - Yes, I don't think there are more questions she could have asked given the hesitation of the victim to speak up
 - No, there are many other questions the police officer should have asked despite the victim's hesitation

28 Good practices

Context

The partners of **Safe To Be** and the consulted police officers worked together to identify best practices for interpersonal contact while assisting a victim of an anti-LGBTI hate crime.

See below for a printable list of these practices.

Make sure you know this list before you go into this exercise, but don't worry if the participants don't come up with all the items on the list. Hand everyone a copy of the PDF after the exercise. They will be using this list when conducting the role-playing exercise at the end of the workshop.

Exercise

Split the group in smaller groups (of 3 or 4) and give them 15 minutes to discuss the following questions. Provide 30 minutes after this for a plenary discussion and see how many of the items on the Good Practices PDF they could identify.

Discussion questions:

- List the bad practices you identified. Elaborate why you identify them as bad.
- What would you have done differently?
- List 5 suggestions to improve this reporting.

See below for a printable list of these practices.

"It should be the obligation of a police officer to make sure that the hate crime is registered as a hate crime, even if the victim is not referring to it as such in the early stages."

– anonymous, interviews Safe To Be

DO

- Make a victim feel safe and comfortable:
 - Ask if a victim is ready to talk, or if there is a need to postpone the interview.
 - Allow breaks for the victim to collect their thoughts.
 - If possible, choose an appropriate room that offers privacy.
 - Thank the victim for speaking up and providing details of the crime.
 - Use the correct name and/or gender of the victim when talking to them, even if this is not the same as what's on their identity card.
 - Sit at a 90° angle instead of right in front of them.
- Explain the reporting and investigative procedure in detail:
 - Provide clear and concise information about the procedure and what the victim can expect.
 - After taking their statement, go over it together a second time and allow them to offer corrections or nuances.
 - Provide information about victim support services.
 - Provide your contact details so the victim can get in touch with you.
- Explain what a hate crime is and the importance of determining motive (briefly).
- Find out about the motive of the crime by asking the victim:
 - ...if they remember exactly which words and/or actions were used by the perpetrator. Ask them once and don't repeat them. These words or actions will help you to identify motivation
 -if they can identify injuries, including emotional state. If needed, refer to medics.
 - ...if they can identify the relationship between the victim and the perpetrator.
 - ...if they think the location of the crime can imply motive.
- Register the incident as a hate crime if system allows it.

DON'T

- Ask the victim if they are a part of the LGBTI community (“so, are you gay?”). Sexual orientation or gender identity should not be disclosed to the officer directly unless there is a specific need for the officer to know this. Hate crime identification is about the *perceived* identity of the victim.
- Ask the victim to repeat painful details (like insults). Once is enough for the report.
- Put the burden of proof on the victim by:
 - Asking them if they are sure they were attacked because of their perceived identity.
 - Asking them if it’s possible that the perpetrator made a joke.
 - Referring to freedom of speech when illegal hate speech occurred.
- Make the victim an accomplice to the crime (second victimization) by:
 - Asking them if they were wearing a provocative outfit. They are allowed to wear what they want without the risk of becoming the victim of a hate crime.
 - Asking them if they did or said anything that may have provoked the incident. They are allowed to be close to their partner and be themselves without the risk of becoming the victim of a hate crime.
 - Asking them why they were at that location at that time. They are allowed to walk around freely without the risk of becoming the victim of a hate crime.

“Hate crimes have been referred to by police officers in different countries as “low level” crime due to lack of evidence, statistic data, and experience, even though hate crimes consist of the regular element of crime with the addition of the bias motive. Therefore, they should be treated at least as seriously as ordinary crime, if not harsher, as the bias adds aggravating circumstances. When police officers diminish hate crimes to a “lower level”, it means they lack an understanding of the meaning of hate crimes.”

– Anonymous, interviews Safe To Be

You have now successfully created a participatory space and touched upon the importance of conscious interpersonal interaction with the victim of an anti-LGBTI hate crime. Now it is time to provide the theoretical backbone that supports the need for extra attention to LGBTI hate crimes. The theory section of this toolkit comprises 3 main chapters:

- Hate crime specific
- LGBTI specific
- Legislation (EU and national)

Since a lot of theoretical material has already been developed, and since this toolkit focusses mainly on raising empathy by providing interactive exercises and real-life cases, the theoretical part of this toolkit is reduced to the basics. It will however include references to external material for further reading.

The information provided in this theoretical part of the toolkit should be placed in a customized presentation, depending on your context and the pre-existing knowledge of your group of participants.

Hate Crime

Definitions

A hate crime is a criminal offence that is motivated by prejudice towards particular groups of people. They are 'message crimes' intended to spread fear and feelings of vulnerability among targeted communities. As such, they not only affect individuals directly, but the entire social group that the individual belongs to. Certain communities are disproportionately targeted, because of their race, belief, sexual orientation, gender, national origin, language, disability, social status, or other characteristics.



Perpetrators target LGBTI people because of negative opinions, stereotypes, intolerance or hatred towards their sexual orientation, gender identity and/or sex characteristics.

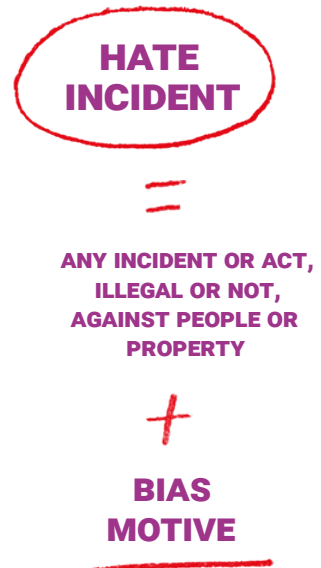
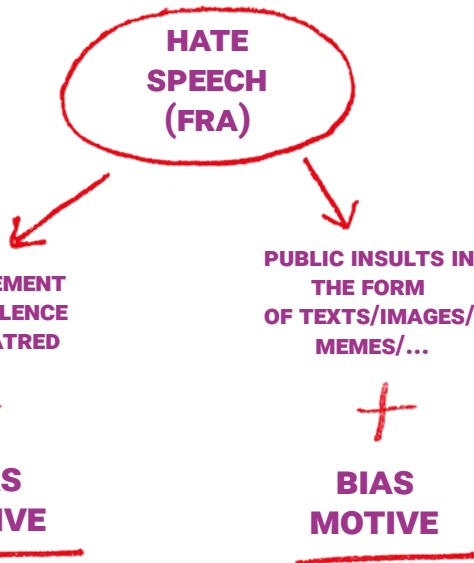
In recognizing a hate crime, it is paramount to be aware that it is about the *perceived* identity of the victim by the aggressor, not their actual identity. As such, anyone could become the victim of a hate crime, if only they are perceived as belonging to a certain societal community.

Hate crimes always consist of two elements: a criminal offence, and a bias motive.

Criminal offence: the act that is committed must constitute an offence under ordinary criminal law.

Bias motive: the act is committed because of a prejudicial bias against a particular societal group. This motive does not need to involve extreme 'hatred' toward the victim. Most hate crimes are driven by more everyday feelings such as hostility, resentment or jealousy towards the target group.

To be recognized as a hate crime by law, the bias must be directed toward a victim because they possess a 'protected characteristic'. Skip to the national chapter for more information about your national hate crime legislation, and which characteristics are protected in your country.



BIAS MOTIVE = target selected because of its real or perceived connection with or membership of a group

Bias indicators are objective facts, circumstances, or patterns connected to a criminal act which suggest that the offender's actions were motivated by any form of bias. Indicators may include:

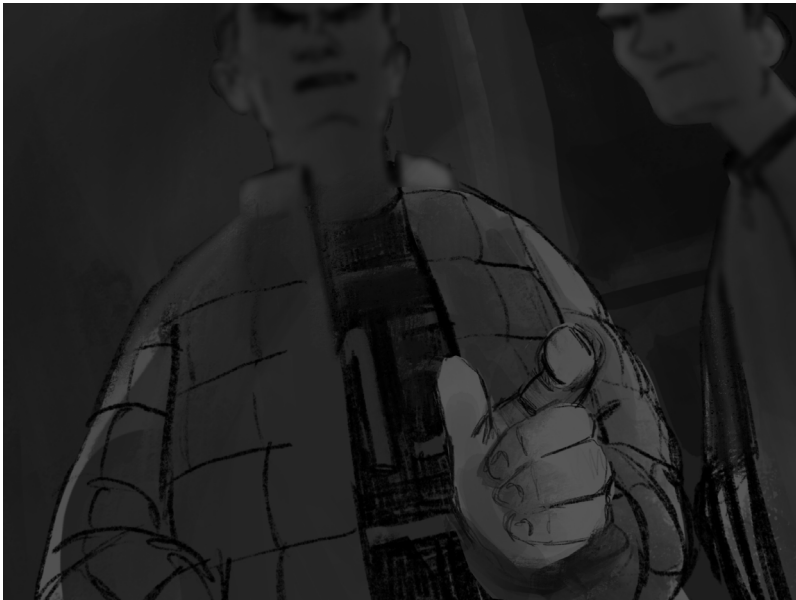
- Victim/witness perception
- Comments, written statements, or gestures
- Drawings, markings, symbols, and graffiti
- Involvement of organized groups or their members
- Location
- Timing
- History of animosity
- Patterns/frequency of previous crimes or incidents
- Nature of violence
- Lack of other motives
- ...

Depending on the level of interaction of your group, consider putting this part of the theoretical chapters in an interactive exercise by having your participants brainstorm for a few minutes.

Hate crime vs. hate speech

As there is no agreed upon international definition of what a hate crime is, it is not surprising that the same is true for the concept of hate speech. International bodies identify hate speech differently.

- The OSCE defines hate crimes as “criminal offenses committed with a bias motive” (OSCE 2009). Since an act of speaking, without the enactment of the prohibited content, is not a crime (unlike, e.g. homicide, physical assault or damage of property), the OSCE argues that this conceptualization excludes hate speech (ODIHR 2009:25 in RTH 2018).
- The definition by FRA (2016a), on the other hand, FRA, taking stock of the fact that all EU member states ban incitement to violence and hatred, argues that “[i]ncitement to violence or hatred against a protected category of persons – commonly referred to as ‘hate speech’ – is both a criminal offense and an expression of discrimination and hence a sub-category of the wider concept of hate crime” (RTH, 2018).



Proportionality

Often, national legislation allows more severe punishments in cases of hate crime. Legislation varies from context to context, but the main rationale behind this is that since hate crimes are in essence 'message crimes' – and as such they inflict injury to the entire community behind the direct victim – they obstruct the creation of harmonious, diverse societies. Punishments for these types of crimes should be enhanced in order to reflect their seriousness.



36 Underreporting of anti-LGBTI hate crimes

There is a significant problem of underreporting. Multiple studies and analysis have shown that anti-LGBTI hate crimes often go unreported or are only reported on an incidental basis.

In some cases, low reporting rates are caused by the lack of anti-hate crime legislation, leading victims to believe that reporting the crime is pointless. However, even in countries where hate crime laws are in force, substantial levels of underreporting remain. This suggests that there are more causes for underreporting than merely the absence of a legislative framework. One of these is a lack of trust in law enforcement, leading to an unwillingness to go to the police. These reasons may not be unique to LGBTI people, but other identified reasons, like internalized homo/transphobia, or fear of secondary victimization, are.

This reinforces a vicious cycle in which law enforcement is led to believe that anti-LGBTI violence is not prevalent or not a serious issue. This in turn may lead them to dismiss suggestions of specific measures to address the needs of the LGBTI community.

Secondary victimization

Secondary victimization is the idea that law enforcement services risk further victimizing someone by making them an accomplice to the crime that was committed against them.

It refers to behaviours and attitudes that are insensitive and which traumatize the victims they are supposed to serve. Law enforcement personnel might fail to tend to the interpersonal actions required to sufficiently support a victim. By doing so, they may cause additional psychological harm to an already vulnerable victim.

Secondary victimization has been identified, both within this project and in previous research (*Come Forward*), as a potential reason why victims choose not to report hate crimes. It is therefore crucial that this concept is addressed in your workshop.

To avoid secondary victimization, there are several good practices

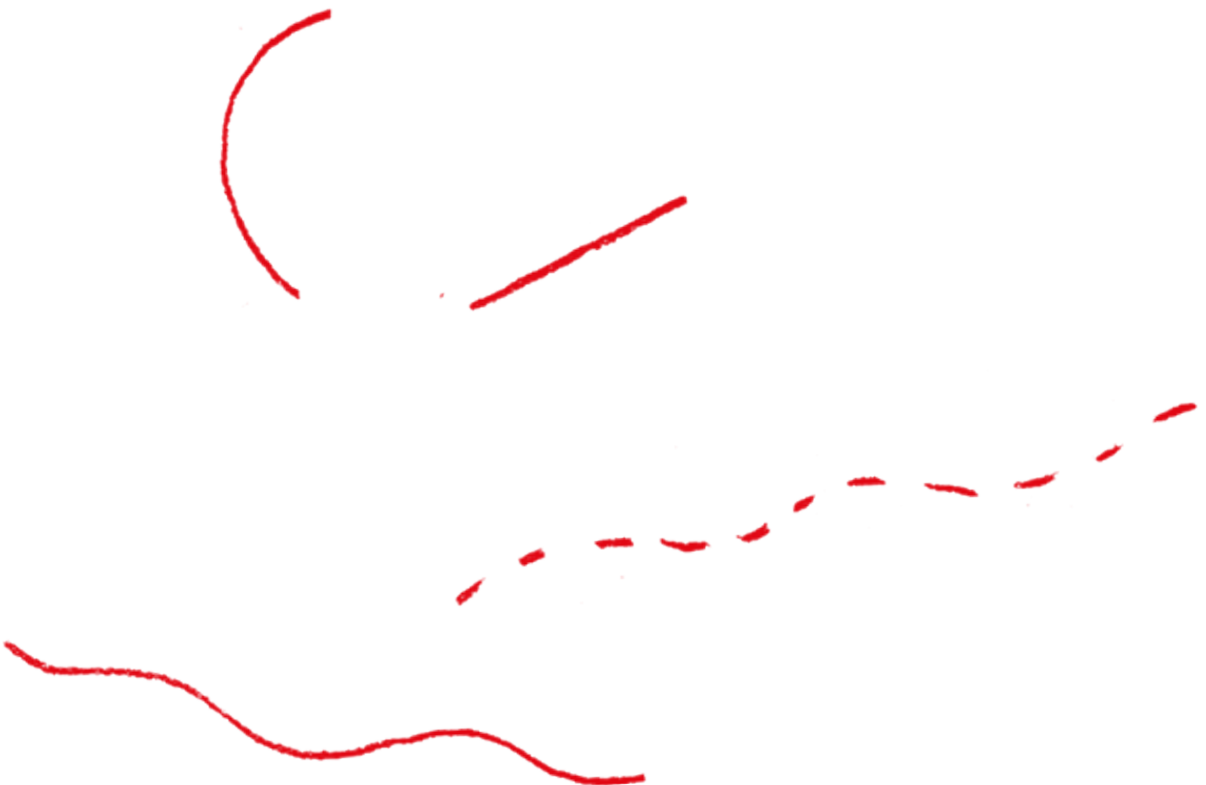
that law enforcement personnel can aim for:

37

- Training on Sexual Orientation and Gender Identity and Expression, and Sex Characteristics (SOGIESC) including awareness raising on the use of correct vocabulary (pronouns, prevention of the use of homophobic and/or transphobic language).
- Raising awareness of the psychological stress that results from experiencing a hate crime.
- Setting up a code of conduct about confidentiality.

Further reading

For more information and training cues on hate crimes specifically, see the OSCE/ODIHR Training on Hate Crime for Law Enforcement ([TAHCLE](#)). This guide includes a list of Frequently Asked Questions by participants of trainings on the topic of hate crimes, including “why do we need this workshop, hate crimes are not a problem in our community”, “do hate crime laws confer ‘special rights’ on certain groups?”, and “Do hate crime laws protect the majority population?”



We've already identified second victimization as one of the reasons why an LGBTI person might choose not to go to the police. Understanding the basics of SOGIESC (Sexual Orientation and Gender Identity and Expression, and Sex Characteristics) is crucial to prevent homophobia and transphobia in law enforcement agencies. With true understanding, police officers can become conscious of the lived experience of an LGBTI person reporting a hate crime and gain the proper skills to work with victims of these crimes.

If you have experience in teaching the topic of SOGIESC, you might have your own resources to consult. You are however free to get assistance from Nima from [KliQ](#) – a Belgian LGBTI educational centre. In 4 educational videos on the topic of SOGIESC, Nima will guide you through the basic terminology of Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIE(SC)), and familiarize you with the concept of LGBTI.

Every video is accompanied by a short quiz to test the knowledge of the participants in your group. The questions are based on the content of the video. Have a look through them, see if they apply to your audience and/or national context, and adjust however you deem necessary. We recommend using [Mentimeter](#) or any other interactive quiz tool to keep your participants active and alert.

Hand out a copy of The Genderbread Person to every participant before showing the videos.



Video 2 – the ‘norm’ and SOGIESC

Quiz

– **What is ‘the norm’?**

- A constitutional law on how to behave in a certain society
- ‘The Norm’ is the title for the person responsible for normative behavior in public spaces
- An informal societal guideline about what is considered normal (a majority concept)

– **What does the acronym ‘LGBTI’ stand for?**

- Learning the Gay and Bisexual Terminology on Inclusion
- Lesbian, Gay, Bisexual, Transgender, Intersex
- Lesbian, Gay, Bigender, Transsexual, Intersex

– **What does the acronym SOGIESC stand for?**

- Sexual Orientation, Gender Inclusivity and Exclusivity and Sexual Chromosomes
- Sexual Originality, Gender Identity and Expression, and Sexual Cyborgs
- Sexual Orientation, Gender Identity and Expression, and Sex Characteristics

– **Why do some people prefer using the term SOGIESC over LGBTI?**

- Because the acronym LGBTI puts people into categories with assumptions about fixed identities. SOGIESC is a more inclusive alternative preferred in international human rights discourses
- Because it’s easier to pronounce than LGBTI
- Because LGBTI kept getting longer and more complicated

– What is the genderbread person?

- A person who eats a lot of gender bread
 - A conceptual teaching tool for breaking down the complicated concept of gender into bite-sized, digestible pieces (encompassing gender identity, expression, sexual orientation and anatomy)
 - An approachable model for understanding the social construct of gender
 - An educational tool to be taken literally
-

Video 3 – gender identity, sex characteristics and gender expression**Quiz****– What does the pronoun ‘they/them’ stand for?**

- It means we’re talking about multiple people
- It’s an incorrect way to refer to a single individual. Everyone falls into the binary category of ‘he’ and ‘she’
- It’s called the singular they and it’s used as a gender neutral pronoun when you either don’t know someone’s gender or this person’s pronouns are they/them

– Who assigns gender when a baby is born in most cases?

- The doctor who delivers the baby
- The parents of the baby
- The color of the blanket that’s available at the moment of birth (blue or pink)
- The color of the cake at the gender reveal party

– What do we mean when we say anatomical sex?

- Chromosomal patterns (X and Y), internal and external reproductive organs, hormone levels, and secondary sexual features
- Internal and external reproductive organs
- Chromosomal patterns (X and Y) and hormone levels

– **What do we mean when we say intersex?**

- Someone who doesn't feel like a woman but was assigned female at birth, or someone who doesn't feel like a man but was assigned male at birth
- We're talking about a wide range of physical traits or bodily variations that lie between stereotypical ideals of binary notions of male or female bodies. Many forms of intersex exist; it is a spectrum rather than a single category
- Someone who positions themselves between or 'inter' male and female gender identities

– **Where would we place 'gender identity' on the genderbread person?**

- In the pants
- In the heart
- In the brain
- Overall

– **What is a cisgender person?**

- Someone who's gender identity matches the gender identity they were assigned at birth
- Someone who's gender identity doesn't match the gender they were assigned at birth
- You can refer to someone's sister as a cisgender person

– **What does it mean to say the term transgender is an umbrella term?**

- It means the term transgender holds many different identities for people whose gender identity is different from the gender they were assigned at birth
- It means it is also appropriate in rainy weather
- It means the term transgender holds many different identities, including non-binary, cross-dresser, agender, genderqueer,...

– What is gender expression?

- Gender Expression refers to people's manifestation of their gender identity and the way it is communicated to the world using outfit, make-up, accessories, hair style, body language, etc
 - Gender Expression is the role or behaviour learned by a person as appropriate to their gender, determined by cultural norms
 - Gender Expression is a way to express you don't like gender
-

Video 4 – sexual orientation**Quiz****– What distinction do we make when we talk about sexual orientation?**

- Between sexual and romantic attraction to another person
- Between attraction to a person and attraction to a type of food
- Between sexual attraction and sexual distraction

– What is biphobia?

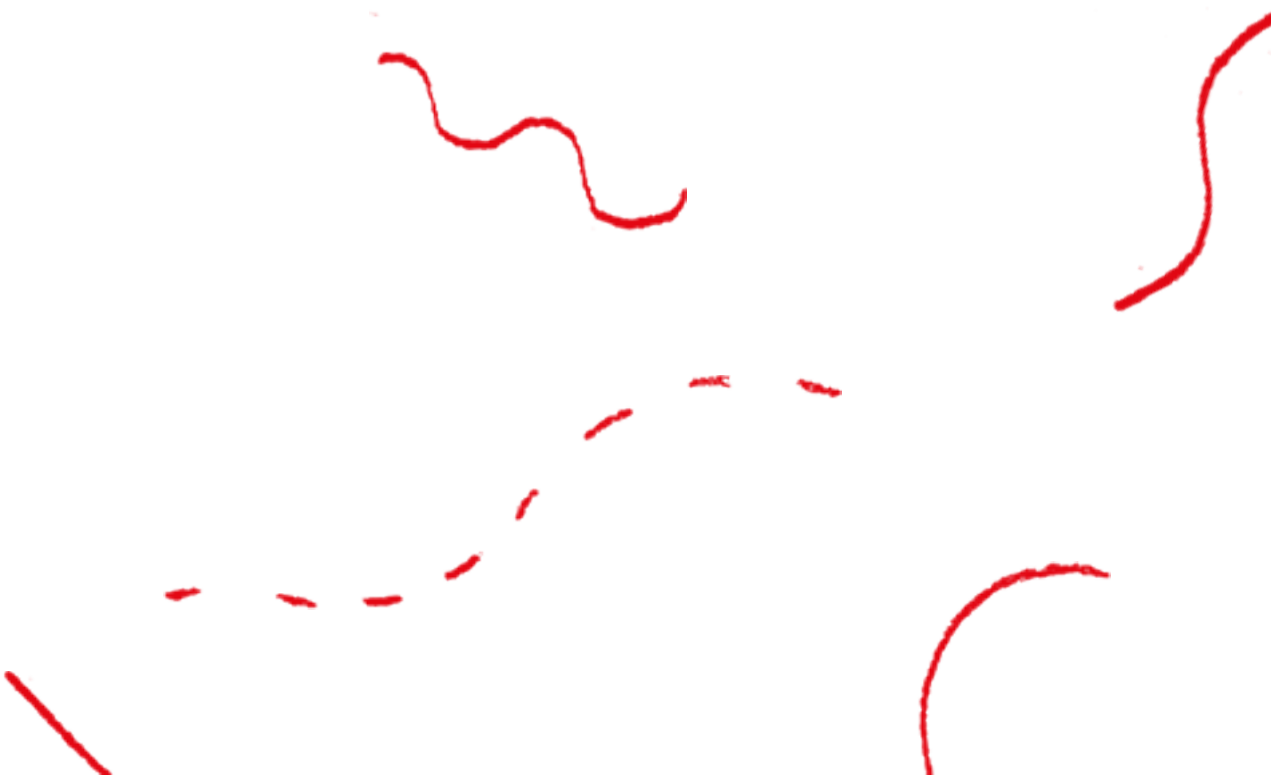
- The belief that biphobia does not exist
- An aversion toward bisexuality and toward bisexual people as a social group or as individuals both in the form of denial that bisexuality is a genuine orientation, or of negative stereotypes about people who are bisexual
- A fear of things appearing in pairs
- A term derived from homophobia and transphobia, but specifically applied to bisexuality

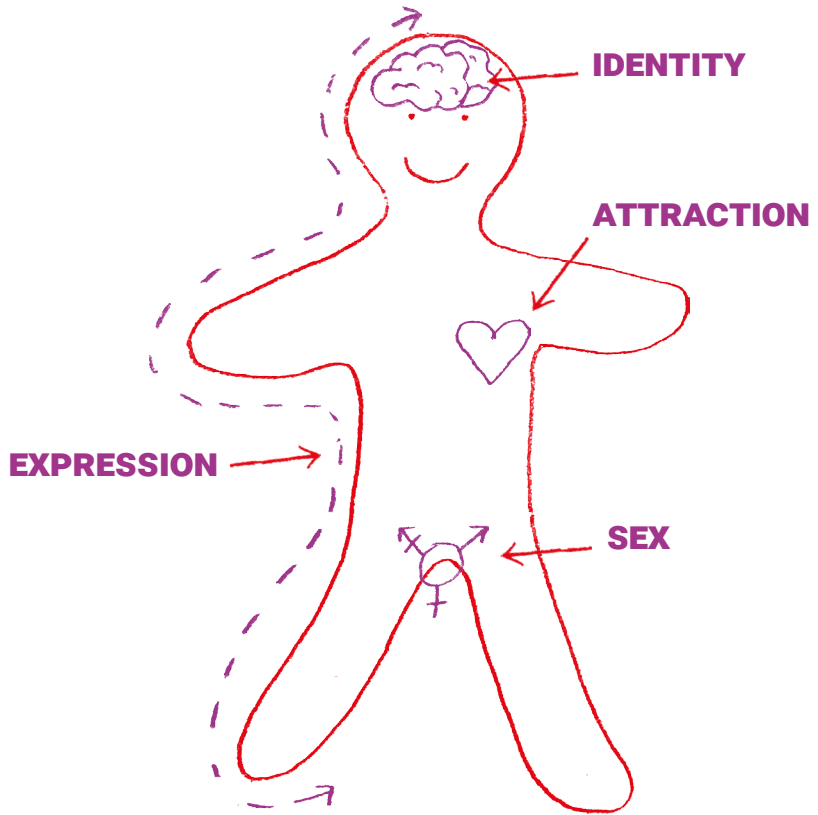
– What is bisexuality?

- Having the potential to be attracted to both men and women, but not transgender people
- A sexual orientation that does not exist. You are either attracted to men, or to women
- When a person can be romantically and/or sexually attracted to persons of more than one gender

– Is it possible for every individual to position themselves on the sliders next to the genderbread person?

- No, this is only possible for people who identify as gay or bisexual
- No, this is only possible for people who identify as transgender or non-binary
- No, this is only possible for people who identify as straight or cisgender
- Yes, everyone can position themselves somewhere on the sliders, regardless of their sexual orientation, gender identity, gender expression or sex characteristics

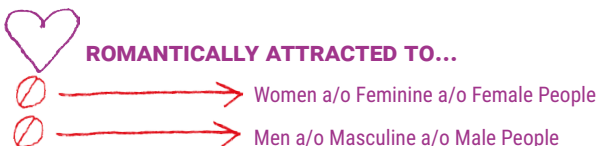
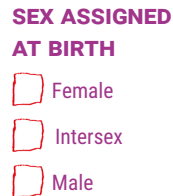




⊘ means a lack of what's on the right side



IDENTITY ≠ EXPRESSION ≠ SEX
GENDER ≠ SEXUAL ORIENTATION



EU context

Overview

Among European member states, there is no consensus on what constitutes a hate crime. As such, protected victim categories are dependent on the national legislation of each individual EU country. Several international institutions and directives have begun to address the problem for the purpose of reporting, policing, providing victim support, as well as to help states build professional responses to hate crime and hate speech.

1. The OSCE Office for Democratic Institutions and Human Rights (ODIHR)
2. The EU Fundamental Rights Agency (the FRA)
3. The ECRI (European Commission against Racism and Intolerance)
4. Victims' Rights Directive 2012/29/EU

THE OSCE and the ODIHR

The OSCE pays specific attention to hate crimes, which they define as “criminal offenses committed with a bias motive” (OSCE 2009). They see this as a major threat to social cohesion which can lead to conflicts and violence on a larger scale. Go to [the OSCE website](#) for more information.

The ODIHR keeps statistics on hate crimes every year. They help policy makers to develop legislation and develop training courses for law enforcement authorities. They also work with NGOs, including some of the partners of **Safe To Be**, to monitor and report hate crimes annually (including SOGI-related hate crimes).

The European Union Agency for Fundamental Rights documents the levels of racism, intolerance and hate crime in the EU, carries out analysis of the legal and policy frameworks, and provides assistance and expertise at both EU and national levels. See [the FRA website](#) for more information.

The Agency has had a pivotal role in making hate crime visible in the EU, documenting gaps in national hate crime data collection mechanisms and encouraging the sharing of good practices. In 2019 the FRA started a new [survey](#) on discrimination and hate crime.

ECRI

The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body which specializes in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance in Europe. Go to [the ECRI introduction booklet](#) for more information.

In 2019 ECRI started work on the 6th cycle of its country monitoring focusing on three main themes: effective equality and access to rights, hate speech and hate-motivated violence, and integration and inclusion. The reports also deal with topics specific to each country and follow-up to the interim recommendations adopted in the 5th monitoring cycle.



Since there is no international agreement on the victim categories which should be protected, there is no international obligation to treat sexual orientation and gender identity as protected grounds in national criminal law. However, the rights of victims of anti-LGBT hate crimes are addressed in the Directive 2012/29/EU on the rights, support and protection of victims of crime. This directive requires EU Member States to ensure that victims of hate crime have access to specialized support services addressing their individual needs, and that victims and witnesses are given the opportunity to reporting the incident to the police.

To consult the entire directive, go [here](#).

Transposition of this directive in some EU member states hasn't been particularly successful, as shown by the Lithuanian case where the transposition has improved the situation of ant-LGBTI hate crime victims only minimally.

Interagency cooperation

“ECRI, ODIHR and FRA increasingly coordinate and cooperate on issues surrounding hate crime. Since 2016, this has been carried out through the EU High Level Group on combating racism, xenophobia and other forms of intolerance, a multi-agency body tasked with assisting the European Commission with the preparation of legislative proposals and policy initiatives. The High Level Group deals with the training of law enforcement services, recording hate crime, ensuring justice, protection and support for victims. Apart from the work of the High Level Group, the Commission provides financial support to states and NGOs in the area of hate speech and hate crime through the Rights, Equality and Citizenship program, whose objectives include combating racism, xenophobia, homophobia and other forms of intolerance.”
p36, Running Through Hurdles, Come Forward.

Belgium – çavaria**National legislation**

The Belgian Penal Code includes several penalty-enhancement provisions for specific offenses if the motive for a crime is hatred, contempt or hostility towards a person because of a protected characteristic such as sexual orientation. Gender identity or gender expression is not included.

Belgium failed to meet the deadline to implement the Victims' Rights Directive. While the position of victims has strengthened over past decades and many provisions of the Directive already existed in Belgian law, no explicit mention of sexual orientation, gender identity or sex characteristics exists in legislation regarding victims' rights and victim support services. The Penal Code does not provide a definition of hate crimes. However, it does provide a specific aggravating circumstance to which penalty enhancements (can or will) apply when one of the motives for a crime is hatred, contempt or hostility towards a person because of one or more of a list of protected characteristics. This is also commonly referred to as the "reprehensible motive" and is found in these sections of the Code:

- Indecent assault and rape
- Manslaughter and intentional inflicting of bodily harm (art. 405 quater)
- Negligence
- Deprivation of liberty and trespassing
- Stalking
- Slander, defamation and desecration
- Arson
- Destruction of buildings, trains, ships, machinery
- Destruction of, or damage to edibles, merchandize or other movable property
- Graffiti and damage to immovable property

While all of those articles include sexual orientation none of them includes gender identity, gender expression or sex characteristics. For example, Article 405 quater of the Penal Code reads:

If one of the motives of the crime consists of hatred, contempt or hostility towards a person because of his so-called race, his skin color, his origin, his national or ethnic descent, his nationality, his gender, his sex change, sexual orientation, marital status, birth, age, wealth, religion or beliefs, current or future state of health, disability, language, political conviction, syndicalist conviction, physical or genetic trait or his social origin, the punishments are as follows (...).

The other articles differ slightly in that they do not include the protected characteristic “sex change”, and they have a penalty enhancement that “can” be applied, leaving the matter in the hands of judges.

A parliamentary commission charged with the evaluation of this legislation noted in 2017 that the reprehensible motive should apply to other crimes as well. In its evaluation of legislation on discrimination, equality body Unia advises the inclusion of crimes such as torture or extortion and the re-inclusion of murder.

Societal attitudes towards LGBTI people

Attitudes towards LGBT people in Belgium are better than in most other European countries. According to the Eurobarometer (437/2015), no less than 81% of Belgians believe that LGB people should have the same rights as heterosexual people. 61% of respondents would feel comfortable or indifferent seeing a gay male couple showing affection in public, compared with 80% in the case of heterosexual couples.

Considering trans people, attitudes are only marginally better than the European average: 36% would feel comfortable with sons or daughters in a relationship with a trans person, while 41% would feel uncomfortable.

In 2018, Belgium (çavaria) participated in the project “Call It Hate: Raising Awareness of Anti-LGBT Hate Crime – CIH” – which lasted for 24 months (from January 2018 to December 2019). Call It Hate’s aim was to raise awareness of anti-LGBT hate crime among the general public and within the LGBT communities, emphasize the need to report, and empower victims.

Findings from the initial research phase of the project, in which 1000 Belgian respondents were questioned, show that Belgians recognize that hate crimes have a bigger impact on its victims than other crimes. The level of empathy however strongly depends on the situation. There is less empathy for a victim when they're part of a Pride parade or when they were drinking, or for a trans person sex worker. The group to which the LGBTI person belongs is also a factor in the level of sympathy a victim of an anti-LGBTI hate crime receives. There is most sympathy for lesbians, followed by gay men, and then bisexual people. Trans people becoming the victim of a hate crime are at the bottom of this list. The research also showed that, generally speaking, Belgians are no proponents of penalty enhancements for hate crimes.

Official statistics on LGBTI hate crimes

The frequency at which anti LGBTI hate crimes occur in Belgian society is not known. The most important conclusion we can draw talking about prevalence, is that there is a big 'dark number' of underreporting (see below).

Belgium hasn't reported official statistics about hate crimes to the ODIHR since 2013. Official police reports however registered 187 cases of LGB violence in 2016, and 107 cases in 2017. There is no available data on transphobic hate crimes.

Police crime statistics use data that was registered in the General National Database. This is a police database that records official reports resulting from the missions of the judicial and administrative police. The figures on LGB phobia that are published only relate to violations of the anti-discrimination law. The codes the police has to use to register crime in this database, the nomenclature, is not detailed enough to recognize hate crimes.

Definitions of hate crimes

The concept of a hate crime is becoming established among professionals. However, two different conceptualizations exist, namely a strictly legal one and a broader, intuitive one. This discrepancy causes moments of confusion and injustice, namely when someone is the victim of a hate crime in the broader, intuitive interpretation, but not in the strict definition of the law.

The legal definition is based on the 10 crimes in the Penal Code to which penalty enhancements apply. Seeing that the terms 'gender identity', 'gender expression' and 'sex characteristics' are not mentioned in the Penal Code apart from in one felony, a crime with a transphobic motive is not seen as a hate crime according to the letter of the law.

On top of that, a crime that is not included in the list of offenses with aggravating circumstances can never be seen as a hate crime, even if there was a homophobic motive.

Several initiatives have been undertaken, especially within the police and judiciary, to increase awareness of legislation. However, few professionals report regular, actual experiences with victims of anti-LGBT hate crime, apart from those who, because of their specific role or organizational mission, are more dedicated to working on discrimination and hate crimes.

Reporting / underreporting

Many hate-motivated incidents are not reported in Belgium. Law enforcement agencies have undertaken initiatives to increase reporting and to improve the hearing of a victim. While such initiatives each have their merit, the problem of the "dark number" of hate crimes persists. Flemish research by D'haese, Dewaele, and Van Houtte (2014), on homophobic violence, found low reporting rates (10%). The reasons for not reporting included:

- Being able to solve the incident by oneself
- Wanting just to move on after the incident
- Not believing the perpetrator would be apprehended and punished

Another study by Motmans, T'sjoen, and Meier (2015) on transphobic violence in Flanders, recorded reporting rates as low as 6% in cases of verbal or psychological violence and 20 percent in cases of physical or material violence. Recurring reasons for not reporting were the minimization of the incident ("not serious enough") and lack of trust that the police and judicial system would be of any help.

It is paramount this 'dark number' is reduced, and that violence and discrimination are made visible. The problem of underreporting can cause the government, police and victim services to question whether measures to combat discrimination and anti-LGBTI hate crimes are even necessary.

It is not solely the responsibility of victims to report facts. As the cases in this training made clear, victims often have good reasons not to go to the police. It is therefore crucial to gain insight into those reasons, and use them to eradicate barriers that LGBTI people experience when contemplating reporting a hate crime.

Existing guidelines for police investigation of hate crimes – COL13

Within the police service and judiciary, a crucial step to improve legal awareness came in 2013, when the prosecutor general published the circular COL 13/2013 that provides a framework to investigate and prosecute hate crime. Its goals are to improve:

- legal awareness on hate crimes and discrimination
- cooperation between police forces and public prosecutors
- involvement of equality bodies
- registration and statistical analysis

To achieve this, the act ordered the appointment of persons who are points of reference for discrimination and hate crimes within local and federal police forces and public prosecution services. It established norms for proper police intervention, prosecution and victim assistance. It also provided instructions on training and the role of the equality bodies, Unia and the Institute for the Equality of Women and Men. Those institutions provided initial training for the reference persons at the police service and judiciary. Such reference persons have the explicit role of providing information to colleagues on the content of the circular and to increase awareness. In some police districts, they are involved in providing training to other police officers and civilian staff.

The evaluation of the COL13 in 2017 showed that not many public prosecutors have expanded their policy on discrimination and hate crime. There was also insufficient interaction with victims of hate crimes to get a good understanding of its impact on the victim. As a result, cooperation with equal opportunity organizations remains very important.

Implementing this training within law enforcement is therefore in line with the guidelines of the COL13.

***National legislation***

While Bulgarian law recognizes some hate crimes, the list of motivations constituting aggravating circumstances does not include sexual orientation, gender identity or gender expression. If reported, hate crimes targeting LGBT people are treated as hooliganism. LGBT victims' rights are not assured: the transposition of the Victims' Rights Directive has been insensitive to the support and protection needs of this group.

There is currently no state-endorsed prevention, recording, classification and analysis of anti-LGBT hate crimes, nor support for victims. Therefore, Bulgaria does not record anti-LGBT violence as hate crimes. No official data on the number of anti-LGBT hate crimes is available.

Societal attitudes towards LGBTI people

According to the 2019 Eurobarometer, 71% of Bulgarians think that same sex relationships are not normal, 74% think that same sex marriages should not be allowed across Europe and 60% disagree that transgender people should have the rights to change the gender in their documents.

In the ILGA-Europe Rainbow Map (2019), which compares the national legal and policy human rights situation of LGBTI people across Europe, Bulgaria is ranked 26 out of 28 EU Member States. Bulgaria scores 20% (where 100% is "rights fully respected", 0% is "violations, discrimination") – a clear proof of the wide social unacceptance and institutional discrimination the LGBTI community in the country is suffering from. Furthermore, it needs to be noted that according to the same indexing, Bulgaria scored 24% in 2018, 23% in 2017, 24% in 2016, 27% in 2015 and 30% in 2014, which clearly shows a tendency of regress over the past 6 years. These numbers were clearly visualized in the beginning of 2019 when our office and community center, the Rainbow Hub, was attacked 4 times by neo-nazi groups, breaking window, post box, flag and signs.

The Penal Code (Penal Code of the Republic of Bulgaria, 1968, amended 2017) proscribes hate crimes in Chapter III: Crimes against the Rights of the Citizens. In the absence of a definition of “hate crime”, the term, which is used, is “crimes against the rights of the citizens”.

There is no general penalty enhancement for hate crimes although the law criminalizes some deeds motivated by hatred, or instigating hatred towards people based on race, ethnicity or nationality, religious or political belief.

Cooperation between services

In the absence of official data, the issue is being overlooked and there are no official services to support victims of anti-LGBT hate crimes. The only specified services for victims of anti-LGBTI hate crimes is the legal program of Youth LGBT organization “Deystvie”, which provides pro-bono legal support to LGBTI people. Some regional crisis centers, managed by NGOs, which provide services to victims of domestic violence and/or trafficking, are open to providing services to victims of anti-LGBT hate crimes, but they have reported that they need additional training in order to address the needs of this group more adequately.

Reporting / underreporting

According to the EU LGBT survey (2013), 31 percent of respondents from Bulgaria declared they had been physically/sexually attacked or threatened with violence in the previous five years; however, only 14 percent of Bulgarian LGBT respondents reported the most recent incident to the police. The only data on anti-LGBTI hate crimes is collected by the LGBTI organizations. In November 2019, a new Coalition on recording hate crimes was established between various human rights organizations, including the LGBTI organizations Bilitis, GLAS Foundation, and Youth LGBT Organization “Deystvie”. The aim of the coalition is to record cases of discrimination, hate crimes and hate speech in order to show the real situation of hate crimes in Bulgaria towards different vulnerable groups, including LGBTI people.

The respondents we interviewed as part of **Safe To Be** (5 representatives of the National Police Directorate, 2 justice professionals and one victim support service provider) had general knowledge on what hate crimes are. However, they shared that the law doesn't recognize anti-LGBTI crimes as hate crimes and shared that they haven't worked on such cases in their career. This shows that anti-LGBTI hate crimes remain invisible even to the professionals who work directly with victims. They shared that some training on hate crimes were organized by the Bulgarian Commission on Protection against Discrimination and the Ministry of Labor and Social Policies of the Republic of Bulgaria, but non-of them focusing on anti-LGBTI crimes specifically.

Existing guidelines for police investigation of hate crimes

There are various resources, aiming to support the work of police officers when working with victims of hate crimes. The Handbook "Working with victims of anti-LGBT hate crimes" was published by Bilitis Foundation in 2019 within the Come Forward EU-funded project. Youth LGBTI Organization "Deystvie" has published the resource "Homophobic and transphobic hate crimes. A Handbook for investigation bodies".

Further reading

The only data on anti-LGBTI hate crimes in Bulgaria is collected by the LGBTI organizations "Bilitis" and "GLAS" Foundation and Youth LGBT Organization "Deystvie". "Bilitis" has published a research on the situation of anti-LGBTI hate crimes in Bulgaria, looking at both the legal framework and the knowledge on the topic among security services and service providers, available [here](#). GLAS Foundation has published statistics on the anti-LGBTI crimes, reported on their platform www.tolerantni.com for the time period May–October 2017. The report can be found [here](#).

In conclusion, in Bulgaria there is no clear procedure on reporting and recording anti-LGBTI hate crimes, hence there is no comprehensive statistical data about them. Very low number of police officers are trained on working with victims of such crimes and know how to react when the victims report to them. There is no specialized psycho-social support for victims of anti-LGBTI hate crimes, provided by the state or the NGO sector. The only consistent support available for victims of anti-LGBTI hate crimes is the one provided by the LGBTI organizations working mostly in Sofia.

National legislation

There is no specific law prohibiting or defining hate crimes. Hate-motivated criminal incidents are investigated and prosecuted under the general provisions of the Penal Code.

Societal attitudes towards LGBTI people

The *societal attitudes* towards LGBT people *are mixed* rather than being mostly negative or positive. In June 2019 the Estonian Human Rights Centre published the results of an opinion survey that looks into people's attitudes towards LGBT topics in Estonia. Similar surveys were also conducted in 2012, 2014, 2017 and 2019 by an independent research company. The main finding of the latest survey was, that more than ever, respondents agree that gays and lesbians should be protected against discrimination in the workplace, education, and access to goods and services. On January 1, 2016, the Registered Partnership Law, which had been passed by the Estonian Parliament in 2014, entered into force. According to the aforementioned survey, the opponents of the Registered Partnership Act are for the first time clearly in the minority, only 39% of Estonian residents do not support the Registered Partnership Act, while 49% support it.

At the same time, the 2019 survey also shows that the attitudes in many areas have not changed significantly compared to last survey. For example, 41% consider homosexuality totally or mostly acceptable, and 52% respondents still consider homosexuality totally or mostly unacceptable, 7% have no opinion. Compared to 2017, these numbers have remained exactly the same.¹

¹ Estonia, Estonian Human Rights Centre and Turu-uuringute AS (2019), available at: <https://humanrights.ee/app/uploads/2019/06/2019-LGBT-aruanne.pdf>

Despite the lack of a specific law regarding hate crimes, in 2016 the state added the possibility for police officers of registering reported hate crime cases. In that context 6 hate crimes were recorded in 2018, out of which only one was anti-LGBT. A year earlier no anti-LGBT hate crimes were recorded.

Definitions of hate crimes / hate speech

The Penal Code includes a provision prohibiting incitement of hatred, among other grounds based on sexual orientation. Gender identity is not included.

§ 151. Incitement of hatred

(1) Activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, color, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status if this results in danger to the life, health or property of a person is punishable by a fine of up to three hundred fine units or by detention.

This prohibition does not work in practice due to the wording of the provision, according to which only such incitement of hatred is punishable, which poses an immediate danger to life, health or property of a person. In 2017 and 2018 the provision found no use was not used.

Cooperation between services

Since there is no specific law prohibiting hate crimes, there is also no hate crime specific approach or cooperation and hate crime incidents are handled and referred between services as other types of crimes. The law enforcement has the obligation to inform the victim about victim support possibilities in Estonia. Usually the police is are the first contact point for the victim.

In Estonia the issue of underreporting is not properly addressed and studied. At the same time the numbers of recorded hate crimes are exceptionally low and there is reason to believe that this might be due to the inadequate legislation

Findings from interviews

Interviews were conducted with 3 law enforcement officers from different units (web-constable, anti-radicalization group officer, and information unit captain), LGBT association lawyer and a victim support services officer; however, it was impossible to reach judicial officials.

The awareness of legal matters and definitions was good or satisfactory among all of them, at the same time they stressed that this might not apply to many other police officers. One reason for that might be the lack of specific law.

Representatives of victim support services and LGBT association lawyer were all well-educated on the hate crime topic, they had profound knowledge and wider understanding of the complexity of the subject, they pointed out challenges and possible solutions. Their main concern was underreporting since victims of hate crime do not usually report specific bias to the police, they just report the crime itself.

All interviewees stressed that specific legislation and legal definition of hate crime would be helpful, it is important to understand the difference between "ordinary" crime and hate crime.

There were no LGBT+ biased hate crimes registered in 2019, nor had victim support services LGBT+ clients, but LGBT Association lawyer stressed that this kind of crime exist, victims are afraid to report the bias of the crime while reporting, sometimes they don't report at all.

There are no existing guidelines for police investigation of hate crimes but the guiding instruction has been developed to assist police officers in technical recording the crime as a hate crime. The police registration system enables police officers to tick a special box, marking a case as a hate crime and add hate crime type.

National legislation

Hungary's existing laws and policies position it towards the middle of the Rainbow Europe country ranking produced by ILGA-Europe, the European Region of the International Lesbian, Gay, Bisexual, Trans & Intersex Association. However, this only reveals part of the experience for LGBT people living in the country. The rhetoric around human rights and LGBT equality as well as the number of LGBT people coming out and reporting hate crimes must be examined alongside what exists in the legislation.

The country has legislation on hate crimes and hate speech explicitly covering sexual orientation and gender identity, but these provisions are not always enforced: criminal justice agencies often disregard bias motivation.

There have been no public campaigns to encourage reporting or efforts to make reporting easier for victims of anti-LGBT hate crimes; some civil society organisations have developed online reporting interfaces and conducted small-scale awareness raising campaigns.

The rights of victims enshrined in the Victims' Directive have mostly been transposed into legislation, but their enforcement is often limited due to lack of human capacity, financial or technical reasons, or restrictive interpretation by public authorities or courts.

Societal attitudes towards LGBTI people

Hungarian society is moderately accepting of LGBTI people: according to the Eurobarometer in 2015 49% agreed that gay, lesbian and bisexual people should have the same rights as heterosexual people (EU average: 71%).

The acceptance of LGBT people has been growing since 2002. While the opinions of age groups do not differ remarkably, geographical location within Hungary counts a lot, and so does the gender of respondents: results show that there is a significant difference between men and women in their attitudes toward the equality of LGBT people, with women being more supportive of equality. Fewer people think that transgender people should be free to live their own lives as they

wish than that lesbians and gay men are entitled to the same (58 vs 62%) and also fewer people would accept them as neighbours than LGB people (40–41% vs 35%).

According to the results of European Social Survey, conducted regularly every two years, in 2002, 46% of Hungarians agreed or agreed strongly with the statement “Gay men and lesbians should be free to live their own lives as they wish,” and 30% disagreed or disagreed strongly. By 2012, the rate of those who agreed or strongly agreed exceeded 50%; in 2014 it was 51%. By 2016, the ratio of those who agreed showed a sharp decrease (37%). At the same time, according to a research conducted by the Hungarian Equal Treatment Authority in 2011, exactly the same proportion of respondents (35%) thought that homosexuality was an illness as those who thought that choosing a same-sex partner is a fundamental right (ETA 2011).

According to a representative survey conducted in the Call It Hate project, six out of ten respondents would empathise strongly with a heterosexual couple attacked in the street, but less than one in two (47%) would feel the same level of empathy toward a same-sex couple or a transgender person attacked in the street. Significantly fewer people than the average (39%) would feel empathy and more respondents would not feel any empathy towards Pride March participants attacked by counter-demonstrators. While only 6% of respondents would feel no empathy with victims when witnessing a physical attack against an LGBT couple, 12% said the same about LGBT people attending a Pride March and being attacked by counter-demonstrators.

The significant drop in empathy and rise in the number of respondents who feel no empathy at all regarding participants attacked by counter-demonstrators during a Pride March shows that quite a few respondents share the view often voiced over Hungarian media and social media sites: that being LGBT is a private issue and people should not “take this out into the streets.” The number of respondents who would feel no empathy towards LGBT persons attacked during a Pride March is even higher among younger respondents (20% among respondents aged 18–24).

Hungary does not disaggregate anti-LGBTI crimes from other hate crimes.

According to the results of the large-sample LGBT Survey 2010, conducted by Háttér Society and the Institute of Sociology of the Hungarian Academy of Sciences, 16% of respondents have been victims of homophobic or transphobic violence. The majority of the attacks took place in public places (63%). However, only 15% of the victims said they have filed an official report. In 23% of the cases, the police were unwilling to do anything; in 48%, an investigation was launched, but yielded no results. Perpetrators were convicted in only 13% of the cases. 51% of the victims chose not to report the incident because they thought the authorities would not have done anything. 43% cited distrust in the authorities. 25% said they were scared of being outed and 23% were afraid of repercussions. 35% were worried their situation would worsen and 22% were ashamed to talk about the attack. 17% did not know who to turn to.

26% of trans respondents in the LGBT Survey 2010 had been victims of crimes (as opposed to 16% of cisgender respondents). The most common forms were verbal abuse/harassment (93%) and threatening with violence (69%). Violence most often happened at public venues (70%). When attacked, trans victims of hate crimes usually suffered more serious harms than non-trans LGB people: three quarters suffered from psychological trauma (78%) and almost half of them were also harmed physically, too (45%). Reporting rates were extremely low: only 11% in the case of violent crimes.

The European Union Agency for Fundamental Rights (FRA) published the results of its LGBT Survey in May 2013. The survey was completed by 93,079 LGBT persons from all over Europe, among them 2,267 persons from Hungary. The research found that 28% of Hungarian respondents had been physically or sexually attacked or threatened with violence in the past five years, while 50% were personally harassed. 59% of the last physical attack and 75% of the last harassment happened partly or completely because the respondent belonged to the LGBT community. The FRA survey also documents the serious impact of such attacks on LGBT people's sense of security: 65% reported avoiding holding hands in public with a same-sex partner for

fear of being assaulted, threatened or harassed; and 68% (the highest proportion in the whole of the European Union) avoided certain places or locations for fear of being assaulted, threatened or harassed because of being lesbian, gay, bisexual and/or transgender.

Despite recent legal progress on this issue, Háttér's research from 2016, covering 10 European countries (348 LGBT respondents in Hungary), found that only 10% of Hungarian respondents experiencing or witnessing homophobic or transphobic hate crimes or online hate speech reported it to the authorities, even though 46% of respondents to the online survey had witnessed or experienced hate crimes or hate speech.

Definitions of hate crimes / hate speech

Hungarian law does not refer to “hate crimes” or “hate speech” per se. The Criminal Code, however, defines and punishes bias-motivated criminal acts with explicit reference to sexual orientation and gender identity. There are two groups of relevant acts: sui generis acts, where the description of a criminal act explicitly refers to bias when defining the motive and the aim of the criminal act; and other criminal acts that do not contain an explicit reference to bias motive, but qualifying circumstances refer to “malicious motive,” which includes bias motive based on someone’s belonging to a social group. The following criminal acts defined by the Criminal Code (Act C of 2012 on Criminal Law, hereafter also referred to as Criminal Code or CC) can be regarded as LGBTI relevant hate crimes:

- as sui generis acts that explicitly refer to sexual orientation and gender identity:
 - violence against a member of a community (CC Article 216);
 - incitement against a community (CC Article 332);
- indirectly, listing malicious motive as a qualifying circumstance:
 - homicide (CC Article 160), assault (CC Article 164), illegal restraint (CC Article 194), defamation (CC Article 226), unlawful detention (CC Article 304), offending a subordinate (CC Article 449).

Sex characteristics (intersexuality) per se is not mentioned in the law, but since the list of protected characteristics is an open ended one, such bias motive is also implicitly covered both in the case of violence against a member of a community and inciting to hatred against a community.

Violence against a member of a community (CC Article 216) is a crime committed by someone who

“(1) displays an apparently anti-social behavior against others for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, aiming to cause panic or to frighten others; this felony is punishable by up to three years of imprisonment;

(2) assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, or compels him by applying coercion or duress to do, not to do, or to endure something; this felony is punishable by one to five years imprisonment”.

The Act also lists qualifying circumstances that result in higher penalties. Punishment is two to eight years imprisonment if violence against a member of a community is committed by carrying a deadly weapon, by causing a significant injury of interest, by tormenting the victim, in a group of 3 or more persons and / or in criminal association with accomplices (CC Article 216(3)).

Preparation for this criminal act is also a misdemeanor punishable by up to two years imprisonment (CC Article 216(4)). Preparation means providing the means necessary for or facilitating the committing of a criminal offense; inviting, volunteering or agreeing to commit a crime (CC Article 11(1)).

Incitement against a community (CC Article 332) is a felony committed by “any person who before the public at large incites hatred or violence against the Hungarian nation, any national, ethnic, racial or religious group, or certain societal groups, in particular on the grounds of disability, gender identity or sexual orientation.” The perpetrator is punishable by up to three years of imprisonment.

In 2013, significant progress was made in improving the legal and institutional framework to deal with anti-LGBTI hate crimes in Hungary. While the legal framework can be considered appropriate, inefficient investigations and disregarding the bias motivation often results in no justice being delivered to hate crime victims.

Public bodies fail to see their role in addressing underreporting, and even those professionals who recognize the existence of the problem relegate its solution to civil society organizations. LGBTI and mainstream legal advocacy organizations have undertaken some efforts to raise awareness about hate crimes and facilitate reporting via online interfaces, but these initiatives receive no public funding from the Hungarian state, and their sustainability and broad impact is questionable.

Hungary has a relatively developed victim support system with victim support and legal aid services offered as a public service. A network of victim protection officers at the police and witness care officials at the court complement this system. However, these public bodies offer no specialized services tailored to the needs of victims of anti-LGBTI violence, have no specific protocols or measures in place for victims of anti-LGBTI hate crimes, and are not properly trained on these issues. There is only one civil society organization offering legal and psychosocial support specifically to anti-LGBTI hate crime victims, but the service is severely underfunded, and not properly linked to public service providers.

Underreporting, the lack of public campaigns, targeted policies and professional trainings result in this group of victims often remaining invisible for criminal justice agencies and victim support services.

Reporting / underreporting

Underreporting of anti-LGBTI hate crimes remains a serious concern in Hungary: research finds that only 10–23% of incidents are reported to the authorities. There have been no public campaigns to encourage reporting or efforts to make reporting such crimes easier. Some CSOs implemented small-scale awareness raising campaigns and online reporting interfaces, but their efficacy is hard to measure.

The underreporting of anti-LGBTI hate crimes is well documented by research in Hungary. A large scale survey research in 2010 by the Institute of Sociology of the Hungarian Academy of Sciences and Háttér Society (1674 respondents) found that only 15% of those respondents who had been victims of violence due to their sexual orientation made an official report. Research by the Fundamental Rights Agency (FRA) in 2012 (2267 Hungarian respondents) found that only 10% of the most recent and 14% of the most serious threats or assaults were reported to the police in Hungary. The most recent research from 2016 covering 10 European countries (348 LGBT respondents in Hungary, research conducted by Háttér Society) found that only 10% of Hungarian respondents experiencing or witnessing homophobic or transphobic hate crimes or online hate speech reported it to the authorities.

Earlier research among professionals about the underreporting of anti-LGBTI hate crimes in the framework of the project entitled UNIFORM: bringing together NGOs and Security Forces to tackle hate crime and online hate speech against LGBT persons found that professionals not in direct contact with crime victims knew little about underreporting or were insecure about answering the question. At the same time, police officers specialized in hate crimes were aware of underreporting. Interview research by the Fundamental Rights Agency with 263 hate crime professionals from around Europe (among them 10 Hungarian professionals) found that 68% of them thought hate crimes are more or significantly more difficult to report than other crimes (FRA 2016).

Findings from interviews

Our interviewees were high ranking police officers, members of the professional hate crime network. Their answers reflected a thorough knowledge of hate crimes and the fact that motives must be examined. They also knew about indicators and mentioned examples like clothes, appearance, location, time, social media contents and expressions used. They also knew the very recently adopted police protocol for investigating hate crimes (ORFK 30/2019. (VII. 18.) Instructions on the tasks of the police related to the treatment of hate crimes, in force since 1 August 2019). The police also mentioned that hate crimes convey messages to whole communities, and that if incidents against one group are on the rise, other groups are also more often attacked.

However, some of their accounts showed the need for training. E.g. one of them talked about “numerous false allegations” by Roma victims, “playing out the ethnic card”, and told that Pride marches are really unnecessary as they draw too much attention to LGBTI people and it’s no wonder participants are attacked.

The police hate crime network is definitely going to develop because of the police protocol for investigating hate crimes. A contact point will be appointed at all city / town level police stations, and this may help identify cases.

All interviewees focused on the major problem of the role of the police taking action on the spot or when the report is made and taken. If they do not recognize the bias motivation, it may easily get lost altogether during the procedure. Thus it is most important to inform and sensitize constables who arrive at the scene of crimes and accept reports.

Systemic problems were mentioned. The injured party is interrogated several times: by patrols, then forensics, then the investigator. Thus it is difficult for them to open up, and easy to lose interest in going through the whole procedure. And if motive is not mentioned at the very beginning, or the police cannot interpret signals properly, the case will most likely not be treated as a hate crime incident.

Training elements they found or would find useful:

- exchange of experience with colleagues from abroad;
- videos focusing on criminalistics: forensic investigation, other investigative steps and actions;
- interactive work, group work;
- case studies, role-play to understand victims’ viewpoint;
- accounts by victims (on video).

An interviewee stressed the need to be listened to when they talk about their own viewpoints, problems and negative experiences. Another told that trainings should also focus on successes and present good work done by the police, not always focus on criticism (as trainings often do according to his account).

They stressed the need for more trainings and systematic education, as things learned during sporadic educative events fade away after a short while.

Police mentioned the list of indicators used by the specialized hate crime unit as well as the recently adopted Police protocol for investigating hate crimes (ORFK 30/2019. (VII. 18.) Instructions on the tasks of the police related to the treatment of hate crimes, in force since 1 August 2019).

By the end of September 2019, there must be a mentor appointed at each city / town / Budapest district level police headquarter to help recognize hate crimes. A specialized unit on hate crimes was set up in 2012, but its members were of the national and county level police headquarters. The new protocol contains that local police commissioners must ensure that local constables in the law and order and criminal divisions are trained about the use of bias indicators and the characteristics of hate crimes by the end of 2019.

An important part of the new protocol is the list of bias indicators: facts or circumstances that refer to bias motives when examining a crime. The protocol says that the presence of bias motive must be examined during each and every police action. If the presence of bias can be assumed, investigators should pay special attention to exploring the bias motive.

The protocol also prescribes that the police must communicate with victims in a calm, objective and supportive manner (within the boundaries of professionalism). The police shall not express any personal judgement related to the victim's behavior, culture, origin or community, and are obliged to avoid words and expressions that convey stereotypes, prejudice or victim blaming.

The protocol also defines the tasks of police performing investigations. Investigators shall cooperate with other law enforcement bodies in order to uncover the characteristics of hate crimes and the possible involvement of hate groups. If necessary, they collect open source data on the suspect accessible through the Internet, collect data on the suspect's attitude towards the given community at the suspect's place of residence and among his acquaintance, and document or confiscate all evidence belonging to the suspect that might prove the presence of bias.

County level members of the specialized hate crimes unit as well as its national level leader monitor criminal proceedings related to hate crimes, as well as the media coverage of such crimes and the activities of organized hate groups and the members of such groups.

Further reading

Running Through Hurdles: Obstacles in the Access to Justice for Victims of Anti-LGBTI Hate Crimes. Edited by Godzisz, P. and G. Viggiani. Lambda Warsaw, Warsaw, 2018. Hungary: pp. 142–173.

Awareness of anti-LGBT Hate Crime in the European Union. Edited by Godzisz, P. and G. Viggiani. Lambda Warsaw, Warsaw, 2019. Hungary: pp. 142–173. pp. 94–112.



National legislation

In Latvia the only legislation clearly covering incitement of hate is The Criminal Law: Section 78 “Triggering of National, Ethnic and Racial Hatred” and Section 150 “Incitement of Social Hatred and Enmity”. The Criminal Law also includes the provision of banning Discrimination. However, this has never been enforced (Section 149¹ “Violation of the Prohibition of Discrimination”).

The Criminal Law does not have an explicit provision covering sexual orientation and gender identity, which is often a reason some members of the LGBTI community do not believe that the Criminal Law is protecting them.

Section 78 of the Criminal Law states that there can be applicable punishment for a person who commits acts directed towards triggering national, ethnic, racial or religious hatred or enmity. This Section of the law is placed under the chapter “Crimes against Humanity and Peace, War Crimes and Genocide”. Section 150 of the Criminal Law states that there can be applicable punishment for a person who commits an act oriented towards inciting hatred or enmity depending on the gender, age, disability of a person or any other characteristics if substantial harm has caused thereby, which is also hard to prove. Also, it does not allow the third party, in this case NGOs, to appeal the decision of the Police or the Prosecutor.

This Section of the law is placed under the chapter “Criminal Offences against Fundamental Rights and Freedoms of a Person”.

The Criminal Law is not including a specific provision on hate speech.

Incitement of hatred is also covered in The Electronic Mass Media Law: Section 23 “Conditions for Creation of a Catalogue of On-demand Electronic Mass Media Services”, Section 26 “Restrictions on Production of Programmes” and Section 35 “General Provisions for the Production of Audio and Audiovisual Commercial Communications”. Only Section 35 includes the provision of “sexual orientation” meanwhile the Section 23 and Section 26 consists of a provision “or other circumstances”.

The Eurobarometer survey found that even though social acceptance of LGBTI people in Latvia has slightly increased in the past four years, it continues to lag far behind the EU average. 72 per cent of those in the EU say there is nothing wrong with same-sex relationships, compared to only 25 per cent in Latvia. The support for same-sex marriage is 69 per cent in the EU, compared to 24 per cent in Latvia. Latvia scored a little better on attitudes towards legal gender recognition, 41 per cent in support versus the EU average of 59 per cent.

Official statistics on anti-LGBTI hate crimes

There are no official statistics kept on hate crimes against LGBTI people in Latvia. Association of LGBT and their friends “Mozaika” has collected 22 hate incident cases in 2018 and 29 hate incident cases in 2019. None of the cases were appropriately investigated, and most of the victims chose not to report the incident in the Police.

Definitions of hate crimes / hate speech

There is no official definition of the hate crimes unless explained at the Criminal Law. As one of the common definitions used at discussions with the law enforcement is used the definition provided by OSCE ODIHR (see European Chapter).

Cooperation between services

There is no apparent inter-institutional co-operation. There are some ad hoc initiatives mostly based on the project or incident basis, but there is an apparent lack of inter-institutional and NGO co-operation in the prevention and proper investigation of the hate crimes.

Reporting / underreporting

Association of LGBT and their friends “Mozaika” believe that there is great underreporting of hate crimes and incidents towards the LGBT community. It is believed that State Police has lack of recourses, knowledge and understanding on the implementation of Section 150

of The Criminal Law, on the other hand, Latvian State Security Service who are responsible on implementation of Section 78 of the Criminal Law has excellent ability and understanding of the hate speech and hate crimes.

Findings from interviews

Interviews show that the senior experts from the State Police and State Security Service have a clear understating of hate crime and its place in the Criminal Law. Currently, there are two Sections in the Criminal Law which deal with hate crimes – Section 78 and Section 150. There is an opinion that both of the Sections should be merged and be the subject of proceedings by the National Police. Currently, Section 78 of the Criminal Law is a subject of proceedings by the National Security Service, but Section 150 – by the National Police. Police officers have a minimal understanding of Section 150 as there has been no experience in implementation of the Article.

Also, interviews with justice professionals show that the respondents have a clear understanding of hate crime and hate speech as well as how the Criminal Law prohibits it, how Section 78 and Section 150 differ from each other and which organizations investigate hate crimes and hate speech.

Existing guidelines for police investigation of hate crimes

The National Police Department of Criminal Intelligence Administration, in co-operation with the State Police College and Security Police, as well as taking into account the views of the Latvian Human Rights Centre, the Ombudsman's Office and the Prosecutor's Office, has developed guidelines for the identification and investigation of "hate crime". The guidelines aim to inform about the circumstances that should be taken into account in identifying "hate crimes" and to investigate them qualitatively. Adjustments and additions in the guidelines will be introduced over time by case law, in which national police investigators should be actively involved in order to facilitate the identification and pre-trial investigation of offences of this category.

National legislation

Even though the Lithuanian criminal law explicitly prohibits hate crimes and hate speech (incitement to hatred) on the grounds of sexual orientation, the protection offered seems to be illusory. Two distinct factors contribute to this situation. First, the law enforcement agencies are reluctant either to start pre-trial investigations or acknowledge the bias motivation behind the crime. Second, Lithuanian LGBT people report high levels of mistrust in law enforcement authorities, which contribute to the high levels of underreporting of SOGI-based incidents. While in 2015 the Victims' Directive has been formally transposed, in practice this change has improved the situation of anti-LGBT hate crime victims only minimally.

Societal attitudes towards LGBTI people

According to the Eurobarometer (493/2019), 53 percent of Lithuanian respondents think that gay, lesbian and bisexual people should have the same rights as heterosexual people. Only 8 percent would feel totally comfortable with a couple of two men showing affection in public. While 41 percent of respondents would be uncomfortable with having a transgender colleague at the office.

Official statistics on anti-LGBTI hate crimes

According to ODIHR, four cases of anti-LGBT hate crimes were registered by the police in Lithuania in 2018.

Legislative context

While the legal framework against homophobia is established, its practical application remains questionable. To the knowledge of the National LGBT Rights Organization LGL, the aggravating circumstance established under the Article 60(1)(12) of the Criminal Code has never been applied in practice for hate crimes based on the grounds of sexual orientation. Considering prohibited hate speech, in the period between 2013 and 2015, the National LGBT Rights Organization LGL submitted 24 complaints to law enforcement agencies, based on 206

instances of alleged prohibited hate speech online, on the grounds of sexual orientation. Of these complaints, 28 pre-trial investigations were initiated in 2013, 13 in 2014 and eight in 2015. All investigations were either halted or terminated with the result that none of the alleged perpetrators was either identified or punished.

Definitions of hate crimes / hate speech

Lithuanian Criminal Code (Seimas 2000) contains a combination of general and specific penalty-enhancement provisions for hate crimes, as well as a substantive offense. Article 129(2)(13) (i.e. murder), Article 135(2)(13) (i.e. severe health impairment) and Article 138(2)(13) (i.e. non-severe health impairment) of the Criminal Code establish penalty enhancements in case these particular offenses are committed out of bias motivation on grounds of, inter alia, sexual orientation. Article 170 of the Criminal Code prohibits incitement to hatred and violence based on, inter alia, sexual orientation (i.e. hate speech), while Article 60(12)(1) qualifies acts committed in order to express hatred on the grounds of, inter alia, sexual orientation as an aggravating circumstance within the framework of criminal proceedings (i.e. hate crimes). Taking into account that criminal offences based on the grounds of, inter alia, sexual orientation, are explicitly defined in the Lithuanian Criminal Code, the incitement to hatred and violence (i.e. prohibited hate speech) is considered as a specific form of hate crime in Lithuania. While sexual orientation is a protected ground under the Lithuanian criminal legislation, the same does not apply to the grounds of gender identity and (or) gender expression. Equally, the Lithuanian hate crime legislation does not cover intersex people, as it does not acknowledge sex characteristics or intersex status as a ground.

Reporting / underreporting

According to the EU LGBT survey (2013), 39 percent of respondents from Lithuania declared they had been physically/sexually attacked or threatened with violence in the previous five years; however, only 16 percent of Lithuanian LGBT respondents reported the most recent incident to the police.

The representatives of the police could not define the concept of hate crime. When answering the question about hate crimes one respondent provided the concept of hate speech. Another respondent stated that hate crimes are incidents when the perpetrator incites hate on the basis of ethnicity and race. Therefore, the representatives of the law enforcement confuse the phenomenon of hate crimes and hate speech and cannot list the exact number of grounds protected under the Criminal Code of the Republic of Lithuania. Law Enforcement representatives also tend to stress on principle that “are crime victims are the same” while not taking into account provisions on special victim protection measures laid down in the Lithuanian Code of Criminal Procedure in the hate crime context.

Existing guidelines for police investigation of hate crimes

In 2009, the General Prosecutor’s Office of Lithuania issued “The methodical guidelines for the organization, management and performance characteristics of pre-trial investigations of offenses committed on racial, nationalistic, xenophobic, homophobic or other discriminative grounds” (Lithuanian General Prosecutor’s Office 2009), where hatred expressed toward individuals or groups of people who share certain characteristics is generally classified as hate speech.

Further reading

Publications by the National LGBT rights organization LGL:

[Awareness of Anti-LGBT Hate Crime in the European Union, 2019](#)

[Toolkit for the Law Enforcement Bodies: Accomodating the Needs of the Victims of Homophobic and Transphobic Hate Crimes, 2016](#)

[The Impact of Hate Crime: Understanding the Needs of Persons Who Experience Homophobic or Transphobic Violence or Harrasment, 2016](#)

[Domestic and Dating Violence Against LBT Women in EU, 2016](#)

[Homophobic and transphobic hate crimes in Lithuania: LGL monitoring report, 2013](#)

[Running through hurdles](#)

National legislation

Hate crimes are not an autonomous criminal offence in Portugal, but are recognized as aggravating penalties for the crimes of qualified murder and offense to physical integrity.

In addition to sexual orientation, the Criminal Code was amended in 2013 to also include gender identity as a covered ground for aggravating circumstances, thus enlarging the scope of protection in case of hate crimes.

In March 2018, the Criminal Code was again amended and the previously named “racial, religious and sexual discrimination” provision now refers to “discrimination and incitement to hatred and violence”, hence better framing hate speech and enlarging the protected grounds to other personal characteristics, but maintaining sexual orientation and gender identity. The previous writing of this provision was widely criticised for its inapplicability and vague framing which made it impossible to file successful complaints. The new wording, though still imperfect, is much more in line with the claims of civil society.

Furthermore, it has become common to find anti-LGBTI online comments² and to date no appropriate measures (guidelines or public statements) to combat it have been adopted by public entities. Despite this, the counter-terrorism unit of the Criminal Investigation Police is now trying to work in close connection with civil society organisations and social media platforms in order to monitor and combat online hate speech.³

² ILGA Portugal publishes an yearly report on anti-LGBTI hate crimes and hate speech in Portugal, where some examples of online comments can be found. The reports, in Portuguese, are available at: <http://ilga-portugal.pt/observatorio/>

³ This proximity is a direct consequence of the work developed in the framework of the European Commission Subgroup on countering hate speech online. Portugal participated in the 2nd and 3rd monitoring exercise of the Code of Conduct on countering online hate speech. More information on the code of conduct and results of the monitoring exercises can be found here: http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=54300

Despite the progresses in the legal framework and the commitments made by public bodies and other social agents, the reality of LGBTI people still lacks systematic and in-depth knowledge. The social climate in Portugal is still quite anti-LGBTI and there are no assessments of the impact of legislation in the LGBTI community or in the Portuguese society.

The insult remains one of the great characteristics and specificities of discrimination against LGBTI people. There is an increasingly significant proportion of situations of discrimination that occur online which can reflect, on one hand, the increasingly widespread use of information and communication technologies in individual and collective daily life, but can also be an indicator of potential of these resources both in the dissemination of hate speech, demonstrating the need for monitoring and control mechanisms, and as a central tool in breaking isolation and invisibility.

Portugal still does not collect data on the experiences of LGBTI persons, including crimes committed against the community, despite constant claims from civil society organizations and international organizations. Most of the surveys with specific data available are either conducted by LGBTI NGOs or by international organizations, such as the EU or the Council of Europe.

Official statistics on anti-LGBTI hate crimes

ILGA Portugal has a report mechanism called Observatório, where people can report discriminatory situations they face. During the year of 2018 there were 186 complaints where 59 of those constituted hate crimes, according to the OSCE definition of the concept. 27 other situations were identified as hate speech.

Cooperation between services

Sexual orientation and gender identity issues are allegedly part of the security forces' trainings, but in reality these trainings are dependent of civil society organizations' capacity. In this regard, ILGA Portugal has a proposal for a protocol of cooperation (which includes training activities) with the Ministry of Internal Affairs and with GNR

(the military security force) pending of decision since, respectively, 2014 and 2013. Notwithstanding, Portugal is part of the training for security forces to implement the Council of Europe manual “Policing Hate Crime against LGBTI persons: Training for a Professional Police Response” .

There are specific units to assist and investigate crimes committed against specific/vulnerable victims (terminology that includes LGBTI persons) but there are no specific units to investigate hate crimes/incidents committed against LGBTI persons. In addition, there are no liaison officers tasked to address these issues or to maintain contact with the community and none of the existing complaints mechanisms are anonymous, which hardens the complaints rate and trust levels with the security forces.

Reporting / underreporting

The Portuguese State does not collect official data on hate crimes against LGBTI persons, despite recurring efforts to raise-awareness of the authorities to need to do so from civil society organizations.

The new National Strategy for Equality and Non-Discrimination includes, for the first time, a specific LGBTI Action Plan which in turn foresees a specific measure to elaborate a study on the current legal framework considering the existing recommendations of the Council of Europe, FRA and OSCE on hate crimes and hate speech – this measure is to be implemented until the end of the LGBTI Action Plan, in December 2021.

Regarding statistical data, though it is not yet collected, the LGBTI Action Plan also encompasses a measure to develop statistics on crimes and acts of violence with homophobic, biphobic, transphobic and interphobic motivations.

When reporting a crime it is still not possible to disaggregate data to reflect the nature of the motivation of the crime, thus there is no available data on hate crimes committed against the LGBTI community, which of course affects the enactment of specific policies on violence and discrimination.

The interviewees did not have the same understanding regarding hate crimes and/or the concept's definition and one of them was completely unaware of the existent domestic legislation.

Existing guidelines for policy investigation of hate crimes

According to the Portuguese Law, there are three organs of criminal police, with different competences and jurisdictions: Criminal Investigation Police (PJ), Guarda Nacional Republicana (GNR) e Public Safety Police (PSP).

Within the GNR there are no specific guidelines. For the PJ there are specific guidelines for the investigation of hate crimes in general but not specifically for anti-LGBTI hate crimes or other grounds of discrimination. For the PSP, there are generic guidelines for "especially vulnerable victims," but nothing specific to the LGBTI population.

There are also no specific units for hate crimes inside any of the three organs of criminal police, even though the PSP has a programs in the area of hate crimes, the GNR has a generic unit who does preventive work, and the PSP has a unite that investigates human rights' violations and a cybercrime unit.

National legislation

In Spain, there is a patchwork of different legal frameworks. The Criminal Code sets a basic, common ground for the whole of the country. However, several regions have specific anti-LGBT violence laws which vary slightly from one another and which address a broader perspective on anti-LGBT violence.

However, in Asturias, Cantabria, Castilla La-Mancha, Castilla y León and La Rioja there are no specific laws to protect LGTBI people. There is also no state law to protect the rights of this group against anti-LGBT violence.

The adoption of the Criminal Code in 1995 was an important milestone in the defense of the rights of LGBTI people, including the protection of sexual orientation (mentions are expanded: sex, sexual orientation, illness und disability), regulated in articles 510, 511, 512 and 515 of the Penal Code.

At the state level, Law 10/1995 of the Penal Code, after its update in 2015, includes anti-LGBT violence as a criminal lawsuit in several articles: article 22 (Any crime referred to in the Penal Code can be considered a hate crime if its motivation has been the sexual orientation, identity or gender expression of the victim, whether real or perceived. Not every crime that an LGBT person may suffer will be considered hate crimes simply because the victim belongs to this group.

To consider that it is a hate crime, it must be proven that the motive for the crime was the victim's membership of the LGBT group. The consequence of classifying a criminal lawsuit as a hate crime is that there will be an aggravation of the penalty (article 22 of the Penal Code). Articles 169 and 510.

Societal attitudes towards LGBT people

According to Eurobarometer (437/2015), 90 percent of Spanish respondents agree that LGBT people should have the same rights as heterosexual people. Almost seven in 10 (69 percent) are comfortable with seeing public displays of affection between same-sex couples and 44 percent feel comfortable about their children being in a relationship with a trans person.

According to the BBVA Foundation's International Study of Values, 73% of Spaniards are in favour of equal marriage. However, the recent entry of an ultra-right party into the public sphere is legitimizing hate speech and LGBTophobia.

Official statistics on anti-LGBTI hate crimes

According to a FELGTB report, LGBT entities collected 623 incidents of hate crimes against people based on their sexual orientation or gender identity in 2017. However, FELGTB estimates that between 60 and 80% of cases of violence against LGBT people are not reported.

The report analyzed 332 cases and revealed that more than half of the cases analyzed (56%) took place in spaces close to the victim: the workplace, the educational center, their own houses or their neighborhood.

The most prevalent violence is harassment and bullying (57%) – which includes insults and use of threatening language – followed by physical aggression (12%) although in half of the cases there are two or more incidents at the same time.

In the majority of cases (70%), the victim is a cissexual man. According to FELGTB, this does not mean that men suffer more violence. That means that they are more empowered to denounce.

In fact, according to a FELGTB survey, more than 40% of trans people suffered threats or psychological abuse in 2018.

In addition, the Ministry of the Interior regularly publishes a report on hate crimes. According to this report, since 2013, in Spain hate crimes have risen by 21% and, between 2013 and 2017, the highest number of cases were for racism or xenophobia (2,301), followed by 1,635 for sexual orientation or gender identity.

84 *Definition of Hate Crime / Hate Speech*

There is no definition of hate crime as such in the Penal Code. In fact, the framework of hate crimes or discrimination does not per se correspond to specific legal categories in our criminal legislation but refers, under one denominator, to hatred which, in turn, leads to discrimination and aversion, to a set of behaviors which sometimes point to new typical actions, and in others determine the qualification of behaviors already defined in the Criminal Code or in administrative rules.

Hate crimes are therefore covered by specific articles: 510, 173, 170, 511, 512 etc. or by the application of aggravating factor 22.4.

The National Office for Combating Hate Crimes, created in 2018 and attached to the Ministry of the Interior, adopts as a working definition the definition used by the OSCE, "any criminal offence, including those committed against persons or property, where the protected legal property is chosen for its real or perceived connection, sympathy, affiliation, support or membership of a group. A group is based on a common characteristic of its members, such as their "race", actual or perceived, national or ethnic origin, language, colour, religion, age, disability, sexual orientation, or other similar factor."

As for hate speech, there is also no definition of it in the Criminal Code, although the type that could be most related to this phenomenon is 510 of the Criminal Code, which punishes anyone who promotes, foments or incites hatred, hostility, discrimination or violence against a person or group because of their issues such as race, nation, sexual orientation, etc., punished with more penalty if it is done through social networks, for example.

Cooperation between services

There is an inter-institutional agreement to cooperate institutionally in the fight against racism, xenophobia, lgtbiphobia and other forms of intolerance in which the public administration participates, but also the third sector, which addresses how to improve hate crime training, criminal response, as well as the statistical recording of incidents.

In addition, for 2019–2020 there is an [Action Plan to Combat Hate Crimes of the Ministry of the Interior](#) that encourages collaboration with civil organizations for which the figure of Social Partner in the National Police and Civil Guard was created. This direct contact with organizations working with the different sectors of the population most affected by hate crimes is aimed at improving assistance to victims.

Reporting / underreporting

Various sources estimate that most hate crimes or discriminatory incidents are neither reported nor brought to the attention of organizations working for victims' rights.

There is no official data on this matter, but the European Union Agency for Fundamental Rights estimates that it is 80% at European level.

On the other hand, according to the report "The Hidden Face of Violence against LGTBI Community" presented by the State Federation of Lesbians, Gays, Trans and Bisexuals in November 2018, it is estimated that between 60 and 80% of cases of violence against the LGTBI collective are not reported.

Findings from interviews (cf.s methodology)

After interviews with the judiciary as well as members of the security forces, we observed that they are aware of the definition of hate crimes and have extensive knowledge of the national legislation in force, which regulates these crimes against, among other realities, LGBTI people.

Most interviewees use the OSCE definition to contextualize hate crimes as a reference, but only a few of them have worked directly on hate crimes cases.

In addition, it highlights the importance for security forces to clearly

note which indicators will justify the existence of a discriminatory motive as a subjective element for the commission of the crime. It is not the same to write a statement in which a woman has been robbed on the street than to write a statement clearly explaining that a transgender woman has been robbed on the street while the perpetrator shouted insults at her for her status as a trans person.

Existing guidelines for police investigation of hate crimes

In 2015, the Spanish Ministry of the Interior approved the “Guideline for security forces in dealing with hate crimes and discriminatory conducts “. It is a compendium of unified and homogeneous guidelines aimed at police officers for the identification, correct collection and coding of racist, xenophobic or discriminatory incidents and crimes, and the determination of the specific elements to take into account in the police actions.

After their approval, the security forces were urged to follow these guidelines, to share them as widely as possible and to include them in their training plans.

- List of conducts that violate the penal and administrative order
- Hate crime indicators
- Phases of police action
- Victims: care, protection and guidance for victims. The victim’s statement
- Online hate crimes
- Violence in sports
- Registration of incidents related to hate crimes
- Relations with the community and NGOs of victims and human rights defenders

In addition, the Ministry of the Interior created the Action Plan to Fight Against Hate Crimes. With it, the Government wants to give a new approach to the fight against hate crimes, setting strategic lines to Security Forces actions through a specific Action Plan.

The purpose of this Action Plan is to prevent hate crimes and reduce

the harm caused to victims, improving the response given by the Security Corps. It is aimed to the Security Forces and Corps and it is mandatory.

The Action Plan is articulated in four Lines of Action; thirteen Objectives; forty-seven Proposed Measures; and involves the production of three new documents and the revision of one more, as well as the bimonthly edition of an Information Bulletin.

However, neither the protocol nor the plan are being implemented correctly. The protocol only applies to those police departments in which management is particularly involved and the plan, which should be updated every six months, is long overdue.

Further reading

For more information, please visit:

'Running Through Hurdles': Obstacles in the Access to Justice for Victims of Anti-LGBTI Hate Crimes

"The Hidden Face of Violence against LGTBI Community"

*National legislation*

The UK has well established anti-hate crime laws, but they are in need of reform to ensure they are coherent, effective and apply equally to all victims of hate crime. There are currently disparities in protection afforded to different minority groups, both within and between the three UK jurisdictions – England & Wales, Scotland and Northern Ireland. Legislation in all three jurisdictions contain statutory aggravations in relation to the protected characteristics that can attach to any offence, as well as standalone offences for certain protected characteristics.

Sentence aggravation: In England & Wales, this is contained in sentencing provisions in of the Criminal Justice Act 2003, ss145 and 146 which state that a judge must enhance the penalty of a defendant convicted of a crime aggravated by racial, religious, sexual orientation, disability or transgender hostility. In Scotland, similar provisions are contained in the Crime and Disorder Act 1998, s96 (race), the Criminal Justice (Scotland) Act 2003, s74 (religion), and the Offences (Aggravation by Prejudice) (Scotland) Act 2009, s1 (disability) and s2 (sexual orientation and gender identity). In Northern Ireland, these provisions are contained in the Criminal Justice (No 2) (Northern Ireland) Order 2004, art 2, but crucially do not cover gender identity, and so offer no protection to trans people.

Standalone Offences: England & Wales have additional penalty enhancement legislation that applies only to race and faith hate crime. These offences carry a higher maximum sentences than the basic offences and are recorded on an offender's criminal record as racially or religiously aggravated. There are also stirring up/ incitement offences in relation to race, religion and sexual orientation, but not for gender identity and disability. In Scotland, the equivalent stirring up provisions only apply to race hate crime. In Northern Ireland, the equivalent provisions have been extended to cover sexual orientation and disability as well as race and religious hate crime, but again do not offer any protection on the basis of gender identity.

The Galop Hate Crime Report examined UK polling on beliefs about LGBT+ people (Stray, 2019). The majority of the population held positive beliefs; with 4 in 5 believing that LGBT+ people should be free to live as they wish. However, a sizeable minority still hold anti-LGBT+ beliefs, and there was a gap between the freedom that people theoretically thought LGBT+ people should have, and their actual beliefs and feelings about LGBT+ people in practice. Only 1 in 20 people said that LGBT+ people should not be free to live as they wish, but 1 in 5 would be uncomfortable with an LGB+ neighbour, 1 in 4 with a trans neighbour, 1 in 5 said that being LGBT+ was against their morals or beliefs, 1 in 10 that being LGBT+ could be cured, and 1 in 10 thought that LGBT+ people were dangerous. Potentially, some people holding these negative views do not recognise them as homophobic, biphobic or transphobic and contrary to LGBT+ rights.

5 in 10 people agreed that hate crime has higher impact than other types of crime, and that LGBT+ people modify their behaviour in public to avoid being targeted. However, only 4 in 10 thought that violence against LGBT+ people is a problem in the UK.

These findings illustrate that while we have made significant progress toward legal equality, there is more work needed to address negative attitudes toward LGBT+ communities.

Official statistics on anti-LGBTI hate crimes

The UK records significantly more hate crime than any other European country. Comparative European research indicates that this is due primarily to improvements in reporting and recording rather than an indication that significantly more anti-LGBT hate crimes occur in the UK than elsewhere.

In 2018/19, the police recorded 14,491 sexual orientation hate crimes (up 25 per cent from the previous year), and 2,333 transphobic hate crimes (up 37 per cent) (Home Office 2019). Recorded hate crime has risen significantly every year since 2013/14, in which just 4,588 sexual orientation hate crimes and 559 transphobic hate crimes were recorded.

Whilst some of the increase is due to improvements in recording, the size of the increase suggests that hate crime itself is on the rise. Despite research above suggesting that LGBT+ hate crime on average involves more serious injury than other types of hate crime, it has very poor outcomes in terms of charging. The percentage of offences resulting in charge or summons for LGBT+ hate crime is between a quarter and half of the percentage for other hate crime strands, across violence against the person, public order offences, and criminal damage and arson (Home Office 2018: 20).

People who experience hate crime are more than twice as likely to experience serious emotional impacts such as difficulty sleeping, anxiety, panic attacks or depression, compared with people who experience crime in general (Home Office 2018:28).

Definitions of hate crimes / hate speech

A key feature of UK recording framework is “perception-based recording”, which all police participants were familiar with and applied in their own work. Exact wording of policies varies slightly across the UK, though an example can be found in the hate crime definition utilized in England & Wales:

‘Hate crime: Any criminal offense which is perceived by the victim or any other person, to be motivated by hostility or prejudice based on a person’s race or perceived race; religion or perceived religion; sexual orientation or perceived sexual orientation; disability or perceived disability and any crime motivated by hostility or prejudice against a person who is transgender or perceived to be transgender’ (College of Policing, 2014).

The intention of the words “perceived by the victim” is to provide a victim-focused approach at the police recording stage in determining whether a bias element is present, so it can be considered during the investigative process. Other key elements in the UK recording model outlined above include, the perpetrator’s perception (correct or incorrect) perception that the victim belongs to an oppressed group, the facility to record non-criminal hate incidents, and recording process improvements made by authorities and NGOs.

The definition cited by justice professional participants was instead the legislative definition: any offence which is motivated by or demonstrates hostility based upon a characteristic protected in that jurisdiction.

Measures to address under-reporting are a key part of the UK anti-hate crime model. The UK records significantly more hate crimes than any other European state, with 16,824 anti-LGBT hate crimes recorded by UK authorities during 2018 (OSCE, 2019). Despite this, under-reporting remains a significant issue. The Government Equalities Office LGBT survey found that 91% of those who experienced hate crime in the past 12 months did not report the most serious incident (GEO, 2018). This reporting gap, is further evidenced by community surveys consistently finding low reporting rates for anti-LGBT hate crime (Galop 2016).

Findings from interviews

There was generally a good level of knowledge among the law enforcement and justice professionals interviewed. However, there was some confusion over how hate crimes were dealt with, which is likely to be the result of a restructuring of the police force.

Some problem areas reported were: underreporting; few evidential leads resulting in no further action being taken; the gap between recorded hate crime and prosecuted hate crime leaving victims dissatisfied; when there was successful prosecutions, difficulties obtaining sentence uplift.

All participants' knowledge of hate crime training was vague, with participants being unable to recall much about what it entailed, or when/how often it occurred. They were dissatisfied that the majority of their training in all areas was delivered online, which made it difficult to retain any information from it. This training was seen as a tick box exercise by many respondents so that the police could say that officers have been trained rather than something that should be seen as important and valuable.

When asked what training they would like to see, all indicated a preference for training delivered in person through workshops or seminars, which a handful participants had undertaken, albeit very rarely. Participants were also keen for there to be materials they could take away from the training so that they would be able to refer it back to it or use on the job if there was something they were unsure about.

Further reading

Hate crime operational guidance (College of Policing, 2014)

www.college.police.uk/What-we-do/Support/Equality/Documents/Hate-Crime-Operational-Guidance.pdf

The Hate Crime Report, Galop (Stray, 2019)

www.galop.org.uk/wp-content/uploads/Hate-Crime-Report-2019.pdf

Working with victims of anti-LGBT hate crimes: A practical handbook (Galop, 2018)

www.galop.org.uk/wp-content/uploads/Working-with-Victims-of-Anti%E2%80%93LGBT-Hate-Crimes.pdf

Hate crime: A guide for LGBT people (Galop, 2018)

www.galop.org.uk/wp-content/uploads/Hate-Crime-Guide-for-LGBT-People.pdf

EXERCISES PART 2

The case for cases

Case studies and role-plays are examples of active and collaborative teaching techniques that are effective for deep learning. They can result in changed perspectives, increased empathy for others, and greater insights into challenges faced by others. They are therefore an ideal exercise for this toolkit.

The following cases are based on real life crimes in participating partner countries of Safe To Be (Belgium, Bulgaria, Estonia, Hungary, Latvia, Lithuania, Portugal, Spain, The UK). We have removed their country of origin and altered them slightly to maintain anonymity, but the authenticity of the crime remains. The rationale behind using real cases is that, due to the underreporting of anti-LGBTI hate crimes, law enforcement services are less likely to gain experience in dealing with anti-LGBTI-hate crimes in their day-to-day activities, causing them to remain unaware of the prevalence of these crimes. By providing these cases to them in a safe, educational setting, we offer a way of becoming more familiarized with anti-LGBTI hate crimes.



Role-playing 'light'

Many role-playing exercises are intended to provide participants with an experience they wouldn't normally encounter. For the exercise in this toolkit however, we have taken a different approach.

Asking law enforcement representatives to step into the shoes of an LGBTI victim is not only an unrealistic demand of your participants, it might also give rise to problematic group dynamics. A caricatured representation of an LGBTI victim should be addressed immediately since it could be counterproductive to the whole purpose of your workshop. If they occur, use those instances as opportunities for reflection ('Why did you act like that when portraying an LGBTI character?').

It is for this reason that the focus of this role-playing exercise is on your participants practicing their 'role' as a police officer trained to work with LGBTI victims of a hate crime, as opposed to 'playing' the victim.

Note: facilitating a role-playing exercise can be quite demanding. Role-playing gains its own dynamic as it plays out. This toolkit therefore relies on your skills as a trainer and can only provide outline guidance to the unpredictable nature of the exercise.

Being the officer

The emphasis in the exercise proposed here, is on your group member(s) who represent the police officer(s). When playing as the police officer in the cases below, encourage your participants to not 'act' as an officer, but to be themselves as much as possible. The only difference from their day-to-day activity is the inclusion of the recently gained knowledge on hate crimes, good practices and SOGIESC.

As such, this exercise is more of a rehearsal of how to conduct an interview with a particularly vulnerable victim using a safe educational setting.

Encourage the participants representing the victims to not 'act' either, but merely *represent* the victim. The idea is to include the character of the victim in such a way that other group members can practice their policing skills, but not as a vehicle for them to *feel* like the victim.

Getting started

- Start by briefing your participants on the purpose of the exercise (see explanation above).
- Divide your participants into smaller groups of 3 or 4.
- Hand each group the same number of cases as they have group members, allowing every participant to represent the police officer at least once.
- There are 3 roles in every group:
 - One group member represents the victim (see notes above about this)
 - One (or two) group member(s) represents the police officer(s)
 - One group member takes up the role of observer. They take notes, analyse the progression of the role-play and lead the debriefing phase
- The actual role-playing occurs in the smaller groups. You as a trainer should walk around in the room and make corrections to the plays wherever you deem necessary, or when a question arises. Be alert to stereotyped representation and intervene whenever necessary.
- Ask your groups to prepare one of the cases the played out to present to the group afterwards. Depending on the level of cooperation, either
 - ask them to act out the play in front of the group,
 - or merely discuss the case with the group. In that case, the observer takes the floor.

Walking around the room

As your participants are conducting their role playing exercises, walk around the room and give directions wherever necessary. These guidelines may help you direct the exercise:

- Be alert to stereotyped representation and intervene whenever necessary.
- Ask participants how they would approach the interview of the victim. Which questions would they ask? How would they phrase them?
- Ask participants how they would conduct themselves and their body language.
- Depending on the specific case the group is working on, there might be other bias indicators that could produce further evidence of bias indicators.
 - Investigate social media sites of perpetrators
 - Interrogate/consult neighbours or acquaintances of perpetrator/victim
- What are other further steps you could take to investigate the bias motive?
- Is there a need to refer the victim to other agencies or organizations?
 - Victim agencies
 - LGBTI organizations
 - Other support services
 - Human rights organizations that address hate crimes
 - ...
- How do you make sure the victim knows that you're taking what happened to them seriously?
- Is it possible/desirable to keep the victim updated about the progress of the case?
 - ...

When debriefing, players should describe how they felt doing the exercise. If the role-play involved heated interaction, the debriefing must reconcile any harsh feelings that may otherwise persist due to the exercise. Reflection and discussion are the main ways of learning from role-plays. Players should reflect on what they felt, perceived, and learned from the session. Review the key events of the role-play and consider what people would do differently and why. Include reflections of observers. Facilitate the discussion, but don't impose your opinions, and play a neutral, background role. Be prepared to start with some of your own feedback if discussion is slow to start.

Why does it matter?

After debriefing it's time to end your workshop on a positive note. Show your participants the second video "Why does it matter?". This video shows the same hate crime as the first video, but is followed by a good practice of a reporting procedure. Participants will see a representation of all the corrections they made to the first video. It will be clear to them at this point that the right approach always produces better results.

The following section contains graphic language, violence, sexual abuse, homophobia, transphobia, and mention of suicide. We urge you to inform your participants.

Every card describes a hate crime against a member of the LGBT community from the perspective of the victim, right up until the point where they will go to the police.

Case 1

Clara is a 45 year-old trans woman who's been out for 15 years. One day she walked into a women's toilet in a mall. Another woman in the stalls noticed her and asked her why she's in there. Clara, who hadn't heard that question in a long time, replied perplexed she's just going to the toilet. When Clara left the toilet, the woman was waiting outside with her boyfriend. He came after her, insulted her and slapped her in the face before walking off. Clara went to report to the security officer at the mall, but he agreed with the aggressor that she probably shouldn't have used that toilet.

After a difficult internal debate, Clara decided to report the crime. She got a good look at the aggressor and would be able to identify him. She is however very nervous about having to disclose her trans identity to a stranger. Since she's been out for so long and doesn't get misgendered often, she is not used to talking about it anymore.

Case 2

The entrance to the office of the national LGBT rights organization was badly damaged. The exterior door and door blinds were set on fire using an unknown flammable substance.

The incident was first noticed by a taxi driver, who accidentally drove by. The taxi driver used a portable fire extinguisher and managed to extinguish the fire even before the fire department, the police and ambulance arrived to the crime scene.

The LGBT organization shares the entrance with a clothes store. A representative of the organization suspects that the incident was motivated by hate towards the local LGBT community. They decide to go to the police and hope they can help them.

Case 3

An outreach event organized by a national LGBT association was crashed by members and supporters of the conservative party. As a result, the police got involved and the event was relocated and postponed. The association communicated this on their social media accounts.

Shortly thereafter, supporters of the conservative party gathered to protest against any LGBT event being held. This attracted the attention of more anti-LGBT protesters who publicly started threatening organizers (mostly youth workers), including threats to burn down the LGBT centre itself if the event would take place again.

Two members of the national LGBT association decided to go to the police with these threats. They hope the police can help prevent an escalation of the situation and maybe provide extra assistance when organizing events.

Case 4

Roxanne and Evi live in state housing with their teenage daughter Robin. Over the last six months they have experienced homophobic abuse from their neighbours. The harassment started with hateful looks and mutterings as they walked past.

Recently the situation has escalated. The words 'lez house' have been sprayed across their front door, and trash keeps being emptied in front of it. The wing mirrors of their car have been smashed, which left Evi unable to leave the house as she has mobility problems. They also found out about rumours that were spread about them abusing their daughter.

They have tried reporting to the police several times, but no action was taken. After another incident of trash being emptied in front of their house, Roxanne decides to go to the police one last time.

Case 5

Dora is a 16-year-old girl who recently came out at school as transgender and bisexual. Since then she has been called transphobic slurs and was assaulted four times by classmates. On the last occasion, her injuries were so bad she had to go to hospital. One boy threatened with her sexual violence saying that she must "want it from everyone" because she is bisexual.

She is also facing transphobia at home from her parents so she cannot talk to them about what is happening. She does not want to go to the police as she thinks it will make everything worse, but her best friend convinces her to report the crime to prevent the situation from escalating. The friend encourages her to bring the hospital bill and some comments made by her classmates on social media (including hateful slurs).

Johann and Nouredinne were walking down the street holding hands when a group of men sped past in a car and threw some garbage out the window at them. Johann called out to challenge them, the car stopped, and the men shouted 'fags' at them repeatedly. They drove toward them threateningly, before driving off. This happened near their home and they recognised one of the men as the son of a neighbour.

Johann is angry about what happened and generally suspicious of authorities. He is worried about Nouredinne as he has a history of depression and won't talk about what happened. They feel anxious when walking around in their neighbourhood and are worried there is more to come.

Johann decides to step to the police, but he doesn't tell Nouredinne about it to not cause him any more stress.

Edmund is a 32-year-old man living in a big apartment block in the capital of a European country. For a while now he is suffering from harassment from one of the neighbours on his floor. There haven't been any insults or actions specifically targeting his sexuality, but Edmund suspects there's a homophobic motive.

On the day of the LGBT Pride, Edmund hung a rainbow flag out of the window facing the street. The neighbour confronted Edmund upon passing him in the hallway, saying he should be ashamed and stop forcing his lifestyle onto others. The following day the same neighbour approached Edmund in the communal corridor and said, 'where I'm from, we shoot people like you', he then threw a glass bottle at Edmund's head, narrowly missing.

In the following days Edmund has avoided leaving his home and takes the threat made by his neighbour seriously. He faced homophobic violence several years ago, which traumatised him and left him with a limp. He was unhappy with the response of the police to that attack. He is now very nervous about opening old wounds and facing more prejudice from law enforcement. He also feels like maybe hanging out the rainbow flag was a bad idea and blames himself for doing this.

After 4 days of being unsure about what to do, he decides to report the incident to the police.

Jakob is a bisexual man who sometimes visits a cruising ground in a local wooded area (an outdoor space where people meet each other for sex). He goes there mainly to socialise and sometimes to meet other men.

One evening he was stopped by a man who asked him for a cigarette lighter. When Jakob reached for his pocket, the man accused him of being a “filthy queer” and told him to hand over his phone and wallet. Jakob was startled and gave them to him, before the man punched him in the face causing a broken nose.

Jakob felt very shaken but did not call the police after the event, afraid they would just blame it on him for being at a cruising ground. Instead he went straight to the hospital, where he stated he tripped on the street. He did contact a friend and told him about what happened. After describing what the man looked like, his friend stated he has heard of the same person attacking other men in the past and urges Jakob to go to the police anyway to prevent worse from happening.

Jakob worries that reporting may cause information about his sexuality somehow reaching his family or colleagues, to whom he’s not out. He decides to go to the police but hopes he can report while remaining anonymous.

Beatriz and Serafina were attacked on a night out in the city centre. Beatriz had her arm around Serafina and kissed her playfully, when a group of men walked past them and one asked for a kiss, saying "Don't worry, I like lesbians." They ignored the group and continued to walk in the opposite direction. The man got angry and shouted, "fat black dykes".

The group started to follow them, and the man grabbed Beatriz' arm. She pushed him away, but another man stepped forward and punched her. The whole group then piled on and Beatriz and Serafina were pushed to the ground and kicked repeatedly. They both sustained injuries. After a few minutes the men ran off.

A bystander called the police and the officer arrived at the scene soon after. After hearing they were displaying affection in public however, the officer asked them why they would do that in a neighbourhood like that. That's just inviting a crime to happen. Feeling blamed for the crime committed against them, they decide not to go with the officer to report the crime, but instead ask him to just take them to the hospital to care for their injuries.

A few weeks passed when Serafina and Beatriz worked up the courage to report the crime to the police. They don't see the officer that was at the scene at the police station, but make sure to mention them to the officer taking their statement.

Trevor is a gay man whose Facebook page was hacked by someone who used it to send offensive and sexually explicit messages. He changed his password which stopped the messages, but other profiles were set up in his name. Facebook removed these profiles when Trevor flagged them, but new ones were continually set up in their place.

Messages such as "I have gay HIV and I'm going to rape you" were sent to work colleagues and family members, outing Trevor and causing some people to distance themselves from him. He started receiving messages too, calling him a 'faggot' and threatening to make intimate images of him public unless he paid money to the sender. Trevor had no idea who was targeting him, though a colleague at work disclosed that she'd heard another colleague making homophobic comments and bragging that it was him that was sending the messages.

He wants the abuse to stop but is too scared to confront the colleague and is not sure whether a crime has been committed. Trevor became extremely anxious about what they would do next. His ability to work was greatly impaired and he was prescribed anti-depressants.

He finally decided to report the incidents to the police after being encouraged to by his manager.

Nicola is a transgender woman who is currently homeless. She has been staying on friends' sofas for a few months now.

One night she went to the home of a man she met in a bar. The man started to sexually assault her, at which point he discovered that she was transgender. He repeatedly hit her in the head with a dull object. Nicola managed to escape the scene and immediately called the police, who arrived shortly after. The perpetrator was arrested at the scene and Nicola was taken to hospital, where she stayed for 2 days to care for her injuries.

Police officers soon lost contact with her and she would not answer her mobile phone. Several days later a representative from the local LGBT organization, Olga, went to the police station with Nicola's signed statement. Olga explains that Nicola has been in touch with her and has asked her to report the crime in her name, since she is very distrustful of authorities and traumatized by previous incidents with law enforcement.

Aleksis 25-year-old gay man posted pictures of his participation in Pride on his Facebook. A little while after, he received message requests from a fake account calling him a lot of anti-LGBT slurs and telling him to stop showing off his sickness. Aleksis read the message but decided to just ignore it. This isn't the first time he's received homophobic messages like that.

The next day however, Aleksis got more messages from the same account, saying, "Hey! I just found out where you live. I might just come pay you a visit and show you how some blood and broken bones will help you overcome your sickness!". Shocked by how explicit the message was and the claim they perpetrator had his address, he blocked the person immediately. A few hours later, Aleksis received messages on Instagram "Do you think that blocking me will help? See you soon, faggot!". Aleksis also blocked the person on Instagram.

For a few weeks Aleksis was scared to leave the house. His roommate finally convinced him to report the crime to the police, since this can't go on like this. Luckily Aleksis kept the messages and takes them with him to the police station. He hopes the police can make him feel safe again.

Gregory was attacked by a group of men when exiting a night club with their friends. The attackers used anti-gay slurs and punched Gregory several times. Their friends begged the security to intervene, but they refused and called the police instead.

When the police arrived, along with the Ambulance, their first remark to Gregory was that they're not surprised that they were attacked, since they were wearing a dress. Police officers asked for identification of the perpetrators. Being in shock from the attack however, Gregory couldn't describe them. The police told Gregory to get their injuries checked first and then come to the police station if they want the case to be investigated.

In the emergency room, the first care doctor made a similar comment, saying that in that country, they don't accept when people dress like this, suggesting it was Gregory's own fault they got attacked.

Gregory decided not to go to the police station at first, but when one sympathetic officer contacted them, they were convinced and went in anyway.

CONCLUSION

Many different barriers prevent police officers from investigating hate crimes. It is paramount that law enforcement identifies these barriers so that they can develop and implement strategies to overcome them. Knowing and recognizing bias indicators is crucial in this. Only when the person reporting the crime feels safe enough to provide the information indicating bias, will the police officer have the appropriate information to pursue a hate crime investigation.

Teaching the right skills to law enforcement on how to recognize these indicators, and how to deal with victims of anti-LGBTI hate crimes, are two key elements in eradicating hate crimes in society.

This multimedia was created with input from both law enforcement and the LGBTI community.

For more information about **Safe To Be**, go to www.speakout-project.eu.





SAFE.TO.BE BY SPEAK OUT
PROJECT

